

No. 2599

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United States  
Circuit Court of Appeals

For the Ninth Circuit.

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COAST SHIPPING COMPANY, a Corporation,  
Claimant of the Schooner "OCEANIA  
VANCE," Her Tackle, Apparel and Fur-  
niture,

Appellant,

vs.

PUGET SOUND TUG-BOAT COMPANY, a Cor-  
poration,

Appellee.

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Apostles.

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Upon Appeal from the United States District Court for the  
Western District of Washington, Northern Division.

Filed

JUL 1 - 1915

F. D. Monckton,



No. 2599

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Circuit Court of Appeals  
For the Ninth Circuit.

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Claimant of the Schooner "OCEANIA  
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Upon Appeal from the United States District Court for the  
Western District of Washington, Northern Division.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Cor-  
poration,

Libelant,

vs.

The Schooner "OCEANIA VANCE," etc.,

Respondent.

**Names and Addresses of Counsel.**

E. C. HUGHES, Esq., Proctor for Libelant and Ap-  
pellee,

661 Colman Building, Seattle, Washington.

MAURICE McMICKEN, Esq., Proctor for Libelant  
and Appellee,

661 Colman Building, Seattle, Washington.

WM. T. DOVELL, Esq., Proctor for Libelant and  
Appellee,

661 Colman Building, Seattle, Washington.

H. J. RAMSEY, Esq., Proctor for Libelant and  
Appellee,

661 Colman Building, Seattle, Washington.

OTTO B. RUPP, Esq., Proctor for Libelant and  
Appellee,

661 Colman Building, Seattle, Washington.

HARRY BALLINGER, Esq., Proctor for Claimant  
and Appellant,

533 Pioneer Building, Seattle, Washington.

CHARLES T. HUTSON, Esq., Proctor for Claimant and Appellant,

533 Pioneer Building, Seattle, Washington.

[1\*]

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**Statement.**

Time of Commencement of Suit: August 7, 1909.

Number of Cause in Lower Court and Names of Parties to Suit: Cause No. 4046. Puget Sound Tug-Boat Company, a corporation, Libelant, vs. Steamer "Oceania Vance," her tackle, apparel and furniture, Respondent; Coast Shipping Company, a corporation, Claimant.

Several dates at which the respective pleadings were filed: Libel filed August 7, 1909. Claim filed August 12, 1909. Answer of claimant filed March 28, 1910.

Issuance of Process and Service thereof: Monition and attachment issued August 7, 1909; Schooner "Oceania Vance," her tackle, etc., attached on said monition August 7, 1909; monition returned and filed August 28, 1909. Stipulation for release of vessel on \$5,000 bond filed August 27, 1909; bond in the sum of \$5,000 for release of vessel filed August 27, 1909 and vessel released to claimant.

Reference to Commissioner: April 7, 1910, cause referred to commissioner to take testimony and return the same into Court. January 28, 1914, said testimony having been taken was duly filed in said District Court by said commissioner.

Time of Trial: Thereafter said cause was duly

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\*Page-number appearing at foot of page of certified Transcript of Record.

submitted on briefs on the merits, the same being heard upon the testimony so taken before and reported by said commissioner, the same being submitted to Honorable Jeremiah Neterer, District Judge, on August 31, 1914. [2]

Memorandum decision filed August 31, 1914.

Final decree filed November 4, 1914.

Order fixing amount of stay bond, February 3, 1915.

Notice of appeal filed March 18, 1915.

Assignments of error filed March 18, 1915.

Citation issued and served March 18, 1915.

Bond for costs and supersedeas on appeal filed March 19, 1915. [3]

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*In the District Court of the United States for the  
District of Washington, Northern Division.*

IN ADMIRALTY—No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,

Libelant,

vs.

The Schooner "OCEANIA VANCE," Her Tackle,  
Apparel and Furniture,

Respondent.

**Libel.**

To the Honorable C. H. HANFORD, Judge of the  
Above-entitled Court:

The libel of the Puget Sound Tug-boat Company,  
a corporation organized and existing under the laws



of the State of Washington, against the schooner "Oceania Vance," her tackle, apparel and furniture, and all persons intervening for their interest in said vessel, its tackle, apparel and furniture, in the cause of collision, civil and maritime, alleges as follows:

### I.

That during all the times herein mentioned said libelant was and now is a corporation organized and existing under the laws of the State of Washington, and having its principal place of business in the City of Seattle, in said State, and was the sole owner of the tug "Sea Lion," her engines, boilers, machinery, tackle, apparel and furniture, which said vessel was of the length of 107 feet, beam 22 feet, depth of hold 13 feet, and of 185 tons gross and 92 tons net measurement, and of the value of \$31,000, and which said tug said libelant used [4] and employed in towing upon the waters of Puget Sound, the Straits of Juan de Fuca and elsewhere; and during the times herein mentioned L. B. Lovejoy was the master thereof.

### II.

That the said schooner "Oceania Vance" is of 446 gross tons and 385 tons net measurement, reputed to be owned by the Coast Shipping Company of San Francisco, California, and if the length of 148.5 feet, beam, 36.1 feet, depth of hold, 11.3 feet, registered at the Port of San Francisco, California, and during the times herein mentioned F. G. Scott was the master thereof; and that during all of said times said schooner was and now is of the value of \$6,000.



## III.

That on the morning of the 9th day of June, 1909, the said tug "Sea Lion" was bound from Waldron Island in the district aforesaid, to Grays Harbor in the district aforesaid, having in tow the barge "Charger" loaded with rock, and was proceeding on her regular and usual course from said Waldron Island towards the Straits of Juan de Fuca. That on the morning of the said 9th day of June, 1909, the said schooner "Oceania Vance" was proceeding up the Straits of Juan de Fuca in ballast under sail. That about 6:40 o'clock A. M. of said 9th day of June, 1909, the weather being thick and foggy, but a fresh breeze blowing up the Straits of Juan de Fuca, being a fair wind for the said schooner, "Oceania Vance," the officers and men in charge of the navigation of said tug "Sea Lion" heard three blasts of a fog-horn ahead, and thereupon the engines of said tug were immediately slowed down and said tug's headway decreased and a few moments thereafter upon hearing the second signal from a sailing vessel approaching [5] with a fair wind, to wit, three blasts on a fog-horn, the engines of said tug were reversed, and while the headway of said tug was gone, the said schooner "Oceania Vance," approaching said tug with great speed and with all sails set, ran into, collided with, and sank the said tug "Sea Lion" so that she became and is a total loss, with the loss of all of the personal effects of the officers and crew thereof. That said collision occurred about four miles east by north of Race Rocks near the port of Victoria at the time aforesaid, and that at the time

of and preceding said collision the said "Oceania Vance" was proceeding at a rate of speed in excess of seven knots per hour, and had all of her canvas set and drawing was out of the usual and ordinary course of vessels coming up the Straits of Juan de Fuca with a fair wind such as was blowing at said time. That said schooner, in order to make greater speed under her rig, instead of running straight up the Straits of Juan de Fuca with a fair wind, was tacking back and forth across said Straits with a fair wind so as to utilize the full speed of all of her canvas, and was proceeding at an unlawful and immoderate rate of speed for the thick foggy weather then prevailing. That during all of the time up to and prior to said collision, said tug-boat was in all respects well manned, tackled, appareled and appointed, and had the usual and necessary complement of officers and crew, and the master and crew engaged on board were on the lookout for the protection and safety of said vessel and of her said tow and were constantly and regularly sounding upon her steam whistle the proper signals at the proper times, and proceeding at a moderate rate of speed, indicating that she was a tug vessel having a tow, and said [6] collision was caused without any fault or negligence on the part of the said tug "Sea Lion," or of any of her officers or crew.

#### IV.

That the said collision was caused solely by the said schooner "Oceania Vance" approaching at an unreasonable, unlawful and excessive rate of speed during the thick fog then prevailing, and especially

as she was approaching a tug-boat ahead, properly signalling her position and the fact that she was burdened with a tow. That had said schooner "Oceania Vance" shortened sail and lessened her speed and headway there would have been ample opportunity for the said tug to have heard several signals from the fog-horn of the said schooner so as to indicate her position and rate of approach and so as to have enabled said tug-boat to have avoided said schooner, but said schooner, regardless of her duty to properly navigate under the then weather conditions of thick fog at a moderate rate of speed, and in a locality frequented by vessels and out of the usual course of sail vessels approaching Puget Sound from the ocean with a fair wind up the Straits of Juan de Fuca, negligently and carelessly proceeded at a speed of over seven knots an hour up to and until the time of the collision aforesaid, causing the total loss of the said tug "Sea Lion," her boilers, engines, tackle, apparel and furniture, and that said collision and the damages resulting therefrom were caused solely by the fault and negligence of the said schooner "Oceanic Vance," her officers and crew.

#### V.

That by reason of the said collision and the loss of [7] the said tug-boat "Sea Lion," her boilers, engines, tackle, apparel and furniture, the said libelant, Puget Sound Tug-Boat Company, has sustained a loss of upwards of Thirty-one Thousand Dollars (\$31,000).

#### VI.

That the said schooner "Oceanic Vance" is now

lying in the port of Mukilteo and within the jurisdiction of this Court.

## VII.

That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this Honorable Court.

WHEREFORE, libelant prays that process in due form of law according to the course of this Honorable Court in cases of admiralty and maritime jurisdiction may issue against the said schooner "Oceanic Vance," her tackle, apparel and furniture, and that all persons having any interest in said schooner, her tackle, apparel and furniture, may be cited to appear and answer on oath all and singular the matters aforesaid, and that this Honorable Court will be pleased to decree the payment of the damage aforesaid, with interests therein from this date until paid, and that said schooner "Oceanic Vance," her tackle, apparel and furniture, may be condemned and sold to pay the same and that the libelant may have such other and further relief as in law and justice it may be entitled to received.

PUGET SOUND TUG-BOAT COMPANY,

By GEO. E. PLUMMER,

Its Secretary,

Libelant.

HUGHES, McMICKEN,

DOVELL & RAMSEY,

Proctors for Libelant. [8]

District of Washington,  
County of King,—ss.

George E. Plummer, being first duly sworn, on oath deposes and says:

I am the Secretary of the Puget Sound Tug-Boat Company, the libellant above named; I have heard the foregoing libel read, know the contents thereof, and the same is true according to my best knowledge and belief.

GEORGE E. PLUMMER.

Subscribed and sworn to before me this 7th day of August, A. D. 1909.

[Seal]

H. J. RAMSEY,

Notary Public in and for the State of Washington,  
Residing at Seattle.

[Indorsed]: Libel. Filed in the U. S. District Court, Western District of Washington. Aug. 7, 1909. R. M. Hopkins, Clerk. W. D. Covington, Deputy. [9]

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*In the District Court of the United States for the  
Western District of Washington, Northern Di-  
vision.*

No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Cor-  
poration,

Libellant,

vs.

The Schooner "OCEANIA VANCE," Her Tackle,  
Apparel and Furniture,

Respondent.



**Praecipe for Appearance [of Proctors for Libellant].**

To the Clerk of the Above-named Court:

You will please enter the appearance of the undersigned as proctors for libellant herein, and the said libellant designates Rooms 661-670 Colman Building, in the City of Seattle, Washington, the office of the undersigned, as the place where service of all papers herein, except writs and process, may be made upon said libellant, and hereby consents that such service may be made at said place.

HUGHES, McMICKEN,  
DOVELL & RAMSEY,

Proctors for Libellant.

[Indorsed]: Praecipe for Appearance. Filed in the U. S. District Court, Western Dist. of Washington. Aug. 7, 1909. R. M. Hopkins, Clerk. W. D. Covington, Deputy. [10]

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*In the United States District Court, Western District of Washington, Northern Division.*

IN ADMIRALTY—No. 4046.

PUGET SOUND TUG-BOAT CO.,

Libellant,

vs.

Schooner "OCEANIA VANCE,"

Respondent.

**Stipulation of Libellant for Costs.**

Whereas, a libel was filed in this Court on the 7th day of August, 1909, by Puget Sound Tug-Boat Company, a corporation, against the schooner or

vessel called the "Oceania Vance," her tackle, apparel and furniture, for the reasons and causes in the said libel mentioned, and the said Puget Sound Tug-Boat Co., libellant and Geo. E. Plummer and J. F. Primrose, sureties, the parties hereto, hereby consenting and agreeing that in case of default or contumacy on the part of the libellant or its sureties, execution may issue against their goods, chattels and lands for the sum of two hundred and fifty dollars.

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulators undersigned shall be and are bound in the sum of two hundred and fifty dollars, conditioned that the libellant above named shall pay all such costs as shall be awarded against them by this Court, or in case of appeal, by the Appellate Court.

Taken and acknowledged before me this 7th day of August, 1909.

AUGUSTUS ARMSTRONG,

U. S. Commissioner.

PUGET SOUND TUG-BOAT CO.

By GEO. E. PLUMMER,

Secretary.

J. F. PRIMROSE.

United States of America,

Western District of Washington,—ss.

Geo. E. Plummer and J. F. Primrose, being duly sworn, each for himself, says: That he is worth the sum of five hundred dollars over and above all his just debts and liabilities and property exempt from

[11] execution; that he is a resident of said Western District of Washington.

GEO. E. PLUMMER.

J. F. PRIMROSE.

Sworn to this seventh day of August, 1909, before me.

[Seal]

AUGUSTUS ARMSTRONG,  
U. S. Commissioner.

[Indorsed]: Stipulation of Libelant for Costs. Filed in the U. S. District Court, Western Dist. of Washington. Aug. 7, 1909. R. M. Hopkins, Clerk. W. D. Covington, Deputy. [12]

*In the District Court of the United States for the Western District of Washington, Northern Division.*

IN ADMIRALTY—No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,

Libelant,

vs.

The Schooner "OCEANIA VANCE," Her Tackle, Apparel and Furniture,

Respondent.

**Praeceptum for Monition.**

To the Clerk of the Above-named Court:

You will please issue monition and deliver same to the United States Marshal for execution.

HUGHES, McMICKEN, DOVELL & RAMSEY,

Proctors for Libelant.



[Indorsed]: Praeceptum for Monition. Filed in the U. S. District Court, Western Dist. of Washington: Aug. 7, 1909. R. M. Hopkins, Clerk. W. D. Covington, Deputy. [13]

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**[Monition and Attachment.]**

Western District of Washington,—ss.

The President of the United States of America to  
the Marshal of the United States for the  
[Seal] Western District of Washington, Greeting:

WHEREAS, a Libel had been filed in the United States District Court for the Western District of Washington, on the 7th day of August, in the year of our Lord one thousand nine hundred and nine, by Puget Sound Tug-Boat Company, a corporation, libellant, against the Schooner "Oceania Vance," her tackle, apparel and furniture, respondent, for the reasons and causes in the said Libel mentioned, and praying the usual process and monition of the said Court in that behalf to be made, and that all persons interested in the said schooner or vessel, her tackle, etc., may be cited in general and special to answer the premises, and all proceedings being had that the said schooner or vessel, her tackle, etc., may for the causes in the said Libel mentioned, be condemned and sold to pay the demands of the libellant.

YOU ARE THEREFORE HEREBY COMMANDED to attach the said schooner or vessel, her tackle, etc., and to retain the same in your custody until the further order of the Court respecting the

same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said Libel, that they be and appear before the said Court, to be held at Seattle in and for the Northern Division of the Western District of Washington, on the 26th day of August, A. D. 1909, at ten o'clock in the forenoon of the same day, if that day shall be a day of Jurisdiction, otherwise on the next day of Jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf. And what you shall have done in the premises do you then and there make return thereof, together with this writ.

WITNESS, the Honorable C. H. HANFORD, Judge of said Court, at the City of Seattle, in the Northern Division of the Western District of Washington, this 7th day of August, in the year of our Lord one thousand nine hundred and nine, and of our independence the one hundred and thirty-fourth.

R. M. HOPKINS,

Clerk.

By W. D. Covington,

Deputy Clerk.

HUGHES, McMICKEN, DOVELL & RAMSEY,

Proctors for Libellant. [14]

Office of U. S. Marshal,  
Western District of Washington,—ss.

In obedience to the within Monition, I attached the schooner “Oceania Vance” therein described, on the 7th day of August, 1909, and have given due notice to all persons claiming the same that this Court will, on the 26th day of August, 1909 (if that day should be a day of Jurisdiction, if not, on the next day of Jurisdiction thereafter), proceed to the trial and condemnation thereof, should no claim be interposed for the same. And that on the 27th day of August, 1909, I released the said vessel upon receiving a notice of bonding signed by the clerk of the U. S. District Court.

Date August 28, 1909.

C. B. HOPKINS,  
U. S. Marshal.  
By Fred M. Lathe,  
Deputy Marshal.

MARSHAL’S FEES AND EXPENSES:

For Serving Attachment and Moni-	
tion .....	\$ 2.00
Miles traveled 29, Expenses .....	2.69
Keeper’s Fees 21 days at \$2.50 per	
day .....	52.50
Releasing Vessel, on Bond .....	.50
	<hr/>
	\$57.69

[Indorsed]: Monition and Attachment. Filed  
Aug. 28, 1909. R. M. Hopkins, Clerk. [15]

*In the District Court of the United States for the  
Western District of Washington.*

IN ADMIRALTY—No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,

Libelant,

vs.

The Schooner "OCEANIA VANCE," Her Tackle,  
Apparel and Furniture,

Respondent,

**Claim of Ownership.**

And now Rotschild and Company intervening as agents for the interest of the Coast Shipping Company, a corporation, with its principal place of business in the City of San Francisco, owner of the schooner "Oceania Vance," her tackle, apparel and furniture, and appear before the Honorable Court to make claim to the said schooner, her tackle and apparel, as the same are attached by the marshal under process of this Court at the instance of the Puget Sound Tug-Boat Company, the said Rotschild & Company aver that they were in possession of the said schooner, her tackle and apparel, as agents at the time of the attachment thereof, and that the above-named Coast Shipping Company is the true and *bona fide* owner of the said schooner, her tackle and apparel, and that no other person is the owner thereof; and that the said Rotschild and Company are the true and lawful bailees thereof as agents. [16]

WHEREFORE, the claimant defends accordingly.

ROTHSCHILD & CO.,  
Agents for Schooner "Oceania Vance."  
TRUMBULL & TRUMBULL,  
Proctors for Claimant.

The Western District of Washington,  
County of King,—ss.

W. J. Jones, being duly sworn deposes and says: That he is a member of the firm of Rotschild and Company above named; that the owner of said schooner is the Coast Shipping Company of San Francisco; that this deponent is duly authorized to put in this claim in behalf of the owner of said schooner, and that the said claim is true to the knowledge of this deponent except as to the matters therein stated on information and belief, and that as to such matters he believes it to be true.

W. J. JONES.

Subscribed and sworn to before me this 11th day of August, 1909.

[Seal] JNO. TRUMBULL,  
Notary Public in and for the State of Washington,  
Residing at Seattle. [17]

[Indorsed]: Claim of Ownership. Filed in the U. S. District Court, Western Dist. of Washington. Aug. 12, 1909. R. M. Hopkins, Clerk. [18]

*United States District Court for the Western District of Washington.*

No. 4046.

PUGET SOUND TUG-BOAT CO., a Corporation,  
Libellant,

vs.

The Schooner "OCEANIA VANCE,"

Respondent.

**Appearance [of Attorneys for Claimant and Respondent].**

To the Clerk of the Above-entitled Court:

You will please enter our appearance as attorneys for claimant and respondent in the above-entitled cause; and service of all subsequent papers, except writs and process, may be made upon said claimant by leaving the same with,

TRUMBULL & TRUMBULL,

Office Address: 708 American Bank Bldg., Seattle,  
Washington.

[Indorsed]: Appearance. Filed in the U. S. District Court, Western Dist. of Washington. Aug. 12, 1909. R. M. Hopkins, Clerk. [19]



*In the United States District Court for the District  
of Washington, Northern Division.*

IN ADMIRALTY—No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Cor-  
poration,

Libellant,

vs.

The Schooner "OCEANIA VANCE,"

Respondent.

**Claimant's Stipulation for Costs and Expenses.**

Whereas, a libel was filed in this court on the 7th day of August, A. D. 1909, by the Puget Sound Tug-boat Company, a corporation, against the schooner "Oceania Vance," for the reasons and causes in said libel mentioned, and whereas a claim has been filed in the said cause by the "Coast Shipping Company," a corporation and the said Coast Shipping Company and F. A. Bartlett and H. M. Thornton, its sureties, the parties hereto, hereby consenting and agreeing that in case of default or contumacy on the part of the said claimant or his sureties, execution may issue against their goods, chattels and lands;

Now, Therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulator undersigned and each of them is hereby bound in the sum of Two Hundred and Fifty Dollars, conditioned that the claimant above named, shall pay all costs and expenses which shall be awarded against it by the final decree of this Court,

or upon an appeal, by the Appellate Court.

COAST SHIPPING CO.,

By ROTHSCHILD & CO.,

Agents.

F. A. BARTLETT.

H. M. THORNTON.

Taken and acknowledged this 11th day of August,  
A. D. 1909, before me.

JNO. TRUMBULL,

Notary Public for Washington, Residing at Seattle.

District of Washington,

Northern Division,—ss. [20]

F. A. Bartlett, H. M. Thornton, parties to the  
above stipulation, being duly sworn, each for him-  
self says: That he is worth the sum of Five Hundred  
Dollars over and above all his just debts and liabili-  
ties and property exempt from execution.

F. A. BARTLETT,

H. M. THORNTON.

Sworn to this 11th day of August, A. D. 1909, be-  
fore me.

JNO. TRUMBULL,

Notary Public for Washington, Residing at Seattle.

[Indorsed]: Claimant's Stipulation for Costs and  
Expenses. Filed Aug. 12, 1909. R. M. Hopkins,  
Clerk. [21]



*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

PUGET SOUND TUG-BOAT COMPANY, a Cor-  
poration,

Libellant,

vs.

The Schooner "OCEANIA VANCE," Her Tackle,  
Apparel and Furniture,

Respondent,

COAST SHIPPING COMPANY,

Claimant.

**Stipulation for Bond [for Release of Vessel].**

It is hereby stipulated by and between the parties hereto, by the attorneys for said parties respectively, that the schooner "Oceania Vance" now held and attached by the marshal by virtue of process issued in the above-entitled cause, shall be released by the said marshal, upon the execution of a bond by the claimant herein in the sum of Five Thousand Dollars (\$5,000.00).

Dated this 20th day of August, 1909.

HUGHES, McMICKEN, DOVELL & RAM-  
SEY,

Proctors for Libellant.

TRUMBULL & TRUMBULL,

Proctors for Claimant.

[Indorsed]: Stipulation for Bond. Filed in the  
U. S. District Court, Western Dist. of Washington.  
Aug. 27, 1909. R. M. Hopkins, Clerk. [22]

*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

PUGET SOUND TUG-BOAT COMPANY, a Cor-  
poration,

Libellant,

vs.

The Schooner "OCEANIA VANCE," Her Tackle,  
Apparel and Furniture,

Respondent,

COAST SHIPPING COMPANY,

Claimant.

**Bond [for Release of Vessel].**

KNOW ALL MEN BY THESE PRESENTS:  
That the Coast Shipping Company, as principal, and  
Fidelity & Deposit Company of Maryland, as sure-  
ties, are held and firmly bound unto C. B. Hopkins,  
Marshal of the United States for the Western Dis-  
trict of Washington, Northern Division, in the sum  
of Five Thousand (\$5,000.00) Dollars, to be paid to  
the said Marshal of the United States for the Dis-  
trict aforesaid, his successors or assigns, for the pay-  
ment of which well and truly to be made, we bind  
ourselves and each of us, our and each of our heirs,  
executors, administrators and assigns, jointly and  
severally, firmly by these presents.

Sealed with our seals and dated this 27th day of  
August, 1909.

The condition of the foregoing obligation is such,  
that, whereas, a libel has been filed in the District

Court of the United States for the Western District of Washington, Northern Division, on the 7th day of August, 1909, by the Puget Sound Tug-boat Company, a corporation, against the schooner "Oceania Vance," her tackle, apparel and furniture, for the sum of Thirty-one Thousand Dollars.

Now, Therefore, the condition of the above obligation is such that if the above-bounden Coast Shipping Company, owner of the schooner "Oceania Vance," its successors and assigns, shall abide by and answer the decree of this court, then this obligation shall be void; otherwise, the same shall be and remain in full force and virtue.

FIDELITY AND DEPOSIT COMPANY  
OF MARYLAND,

By WALTER McKAY,

Attorney in Fact.

[Seal]

Attest by: A. W. WHALLEY,

Agent.

COAST SHIPPING CO.

By ROTHSCHILD & CO.,

Agents. [23]

Sealed and delivered, taken and acknowledged,  
this — day of August, 1909, before me.

\_\_\_\_\_,  
Notary Public in and for the State of Washington,  
Residing at Seattle.

United States of America,  
State of Washington,  
County of King,—ss.

\_\_\_\_\_ and \_\_\_\_\_, being duly sworn, each  
deposes and says:

That he is a resident of Seattle in the State of Washington, and that he is worth the sum of Ten Thousand Dollars (\$10,000.00) over and above all his just debts and liabilities.

\_\_\_\_\_,  
\_\_\_\_\_,  
Sworn to this — day of August, 1909, before me.

\_\_\_\_\_,  
Notary Public in and for the State of Washington,  
Residing at Seattle.

Approved: August 27, 1909.

C. H. HANFORD,  
Judge.

[Indorsed]: Bond. Filed in the U. S. District Court, Western Dist. of Washington. Aug. 27, 1909. R. M. Hopkins, Clerk. [24]

\_\_\_\_\_  
[Answer.]

*In the District Court of the United States for the  
District of Washington, Northern Division.*

IN ADMIRALTY—No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,

Libellant,

vs.

The Schooner "OCEANIA VANCE," Her Tackle,  
Apparel and Furniture,

Respondent.

To the Honorable C. H. HANFORD, Judge of the  
Above-entitled Court:

The answer of the Coast Shipping Company, a corporation duly organized under and by virtue of the laws of the State of California, and having its principal place of business in the City and County of San Francisco, State of California, intervening for its interest in the schooner "Oceania Vance," to the libel of the Puget Sound Tug-boat Company, a corporation, answers and alleges as follows:

I.

That this respondent is ignorant of the matters contained in the first article of the said libel, and as to the matters contained therein it has no knowledge, personal or otherwise, but on information and belief it avers that the same are, in a great part, falsely alleged, and that the truth is otherwise.

II.

That this respondent is ignorant of the matters contained in the third article of the said libel, as to the said tug [25] "Sea Lion" proceeding on her regular and usual course from said Waldron Island toward the Straits of Juan de Fuca, and has no personal knowledge thereof, but on information and belief it avers that the same is in a great part falsely alleged and that the truth is otherwise.

III.

That on the morning of the said 9th day of June, 1909, the said schooner "Oceania Vance" was proceeding up the Straits of San Juan de Fuca in ballast under sail; that at said time she was properly manned and equipped, and had a full complement of

officers and seamen aboard, and the vessel was running before the wind and steering straight course for Point Wilson; that at said time the said "Oceania Vance" was making about five and one-half knots an hour; that about 6:40 o'clock A. M. of said 9th day of June, 1909, the weather being thick and foggy, and a strong wind blowing up the Straits of said Juan de Fuca, it was difficult to navigate the said schooner "Oceania Vance," and the mechanical fog-horn of the said "Oceania Vance" was being blown at the intervals required by law, suddenly the loom of a vessel was seen about ——— points on the schooner's port-bow, and almost immediately afterwards there came in sight the tug "Sea Lion," sailing free on a course of about ——— and moving through the water at the rate of about seven knots. That immediately thereafter the schooner endeavored to steer so as to get out of the way of the said "Sea Lion"; that the said "Sea Lion" first reversed its engines and then started to go ahead again and that the said tug "Sea Lion" thereupon ran into, collided with and struck the said "Oceania Vance" in the stern about the thirteen foot mark. That the said "Oceania Vance" at said time was steering a straight course for Point Wilson, and had sounded fog-signals for a long time prior thereto, and in every way complied with the rules of the road; [26] that when the said "Oceania Vance" and its officers heard the whistle of the said tug "Sea Lion" they did their utmost to steer clear of anything coming near it, and had swung quite a little bit, when the said "Sea Lion" crashed into the said "Oceania



Vance.” That the said schooner “Oceania Vance” was proceeding on her usual and regular course, and that the said tug “Sea Lion” was proceeding at an unlawful and immoderate rate of speed for a steam vessel in such thick and foggy weather as then prevailed. That the said collision was in no wise caused by any fault or negligence on the part of the said schooner “Oceania Vance” or any of her officers or crew, and was caused entirely by the fault and negligence and carelessness of the said tug “Sea Lion,” her officers and crew.

## IV.

That the said collision was caused solely by the said tug “Sea Lion” starting her engines and going ahead after having stopped the same. That had the said tug “Sea Lion” stopped her engines and then backed, there would have been no collision and that said collision was caused solely because the officers of the said tug “Sea Lion” so carelessly and negligently operated the said “Sea Lion” and her engines that it was impossible for the said “Oceania Vance,” her officers and crew, to avoid being struck by the said tug “Sea Lion,” and that said collision and the damages resulting therefrom was caused solely by the fault and negligence of the said tug “Sea Lion,” her officers and crew.

## V.

That by reason of the said carelessness and negligence of the said tug “Sea Lion,” her officers and crew, the said schooner “Oceania Vance” sustained damages to a large amount, to wit, to the amount of \$500.00 and upwards.

## VI.

That said accident was occasioned by negligence and want of care in the master, officers and crew of the said tug "Sea [27] Lion" in first stopping said tug "Sea Lion" and then going ahead, and thus crashing into the said schooner "Oceania Vance."

## VII.

That all and singular the premises are true.

WHEREFORE, the respondent prays that this Honorable Court would be pleased to pronounce against the libel aforesaid, and to condemn the libellant in costs, and otherwise law and justice to administer in the premises.

TRUMBULL & TRUMBULL,  
Proctors for Respondent. [28]

State of California,  
City and County of San Francisco,—ss.

Joseph A. Oliver, being duly sworn, deposes and says:

That he is an officer, to wit, the President and Manager of the Coast Shipping Company, intervenor above named. That he has read the above and foregoing answer, and knows the contents thereof, and that the same is true of his own knowledge except as to the matters therein stated on information and belief, and that as to those matters that he believes it to be true.

JOSEPH A. OLIVER.



Subscribed and sworn to before me this 19th day of February, 1910.

[Seal]

FLORA HALL,

Notary Public, in and for the City and County of San Francisco, State of California.

Copy of the within Answer received and service acknowledged this 17th day of March, 1910.

HUGHES, McMICKEN, DOVELL & RAMSEY,  
Proctors for Libelant.

[Indorsed]: Answer. Filed in the U. S. District Court, Western Dist. of Washington, Mar. 28, 1910.  
R. M. Hopkins, Clerk. [29]

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*In the United States District Court for the Western  
District of Washington, Northern Division.*

No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,

Libelant,

vs.

The Schooner "OCEANIA VANCE," etc.,  
Respondents.

**Order of Reference.**

Now, on this 7th day of April, 1910, the motion of Hughes, McMicken, Dovell & Ramsey, Proctors for libelant, for an order of reference in the above-entitled cause coming on to be heard, and it appearing to the Court that issue in the above cause has been heretofore duly and regularly joined;

It is hereby ORDERED that the above-entitled

cause be and the same hereby is referred to A. C. Bowman, Esquire, Commissioner, to take and report to the Court the testimony of the respective parties to said cause with all convenient speed.

Dated this 7th day of April, 1910.

C. H. HANFORD,  
Judge.

O. K.—TRUMBULL & TRUMBULL.

[Indorsed]: Order. Filed in the U. S. District Court, Western District of Washington, Apr. 7, 1910. R. M. Hopkins, Clerk. [30]

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*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

No. 4046.

PUGET SOUND TUG-BOAT CO.,

Libelant,

vs.

Schooner "OCEANIA VANCE,"

Respondent.

**Order [Continuing Cause for Term].**

Now, on this day upon the consideration of the Call Calendar for the May, 1913, term of court, neither party answering hereto, upon the Court's own motion pursuant to Rule 48, said cause is continued for the term. FIRST CALL.

Dated May 6, 1913.

General Order Book 4, page 128. [31]

**[Transcript of Testimony.]**

*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

No. 4046.

PUGET SOUND TUG-BOAT COMPANY,  
Libelant,

vs.

The Schooner "OCEANIA VANCE," etc.,  
Respondent,  
COAST SHIPPING COMPANY,  
Claimant.

To the Honorable Judges of the Above-entitled  
Court:

Pursuant to the order of reference herein, I proceeded with the hearing of proofs in this cause, the libelant appearing by Mr. Rupp, of Hughes, McMicken, Dovell & Ramsey, and the claimant appearing by Mr. Trumbull, one of the proctors for the claimant. And on this 10th day of April, 1911, the libelant proceeded with its testimony as follows:

**Libelant's Testimony.**

**[Testimony of Capt. L. B. Lovejoy, for Libelant.]**

Capt. L. B. LOVEJOY, a witness produced on behalf of the libelant, being duly sworn, testified as follows:

Q. (Mr. RUPP.) Your name is L. B. Lovejoy.

A. Yes, sir.

Q. You were master of the tug "Sea Lion" at the time of the collision between the "Oceania Vance"

(Testimony of Capt. L. B. Lovejoy.)

and the "Sea Lion," at which time the "Sea Lion" was sunk somewhere near Race Rocks?

A. Yes, sir.

Q. How long had you been master of the "Sea Lion" at that time? [32]

A. Since April 15th.

Q. How long had you been a master at that time, how long had you had a license?

A. Since January, 1898.

Q. How long had you been in the employ of the Puget Sound Tug-boat Company in the capacity of master? A. About nearly nine years.

Q. As such master you had had charge of various tugs for the same tug-boat company? A. Yes, sir.

Q. You remained in the employ of the Puget Sound Tug-boat Company sometime after this, did you? A. Yes, sir.

Q. About how long?

A. Until the first of December.

Q. Since that time you have been master of the steamer "Fairhaven"? A. Yes, sir.

Q. Plying on the waters of Puget Sound?

A. Yes, sir.

Q. Between what place?

A. Seattle and La Conner.

Q. You were familiar, were you, with the waters from Waldron Island out to Flattery, at that time?

A. Yes, sir.

Q. And had been for sometime? A. Yes, sir.

Q. What crew did you have on the "Sea Lion" at the time of the collision?

(Testimony of Capt. L. B. Lovejoy.)

A. Ten men all told. [33]

Q. And consisted of what?

A. Captain and mate, chief and assistant engineer, two sailors, three firemen and cook.

Q. Where were you bound from at the time of the collision?

A. From Waldron Island to Gray's Harbor.

Q. Did you have a tow that night.

A. Yes, we had a tow, the barge "Charger" in tow.

Q. This is how large a barge, if you know?

A. She has a carrying capacity of 1700 tons of rock at the time.

Q. You were carrying rock from Waldron Island down to Gray's Harbor for the purpose of the jetty at Gray's Harbor? A. Yes, sir.

Q. Where were you anchored at Waldron Island?

A. Cowlitz Bay.

Q. What time did you leave Cowlitz Bay?

A. I think about midnight.

Q. On the night before the collision?

A. Yes, sir.

Q. Were you on deck at the time you left Waldron Island? A. Yes, sir.

Q. When did you turn in?

A. I went to bed when we were off Tura Point on Stuart Island.

Q. What time?

A. About 25 minutes after one.

Q. At that time was there any fog? A. No, sir.

Q. Now, will you describe the relative position of your berth [34] and the wheel-house?

(Testimony of Capt. L. B. Lovejoy.)

A. Well, my berth came right up against the bulk-head of the wheel-house, the aft end of the wheel-house. The wheel-house and the Texas were all one house, on a level.

Q. Easy to get from your berth into the wheel-house? A. Yes, sir.

Q. Now, when you left Waldron Island, you were proceeding under a slow bell?

A. We were until they got the anchor up.

Q. And that would take how long?

A. Sometimes it takes an hour. I do not just remember in this case how long it did take.

Q. Then after that you proceeded under full speed? A. Full speed.

Q. Did you pass Discovery Island?

A. Yes, sir.

Q. About what time?

A. Well, I forget just exactly the time we passed Discovery Island, for I was in bed. Right off Discovery Island the mate started to blow the fog-whistle, one long and two short. I woke up and as soon as he blew the whistle asked him if it was getting thick, and he said yes, and they had a fog-signal on Discovery Island and they started that up.

Q. About four o'clock? A. About four o'clock.

Q. Did you afterwards hear the Trial Island whistle? A. Yes, sir.

Q. Your fog-whistle was still blowing at that time?  
[35] A. Yes, sir.

Q. That kept up until the time of the collision, did it? A. Yes, sir.



(Testimony of Capt. L. B. Lovejoy.)

Q. About how often did that fog-whistle blow?

A. Oh, about every minute or minute and a half.

Q. Well, what kind of a whistle did you have?

A. Had a very deep, coarse whistle.

Q. Now, when did you first hear the horn, if you heard any, of the "Oceania Vance"?

A. Why, about I should judge a minute and a half or two minutes before the collision; possibly a minute and a half.

Q. What time in the morning was that?

A. That was about 6:30, 6:35 or 6:40.

Q. Was it broad daylight?      A. Yes, sir.

Q. How was the fog at that time?

A. It was—well, it would clear up a little bit and then come in very thick.

Q. What was the sea?

A. The sea was moderate.

Q. How much wind was blowing?

A. I should judge it was about a 15 or 20 mile breeze.

Q. What was its direction?

A. About southwest.

Q. What course were you heading at that time?

A. About southwest three-quarters south.

Q. That was the same course that you had been on since you passed Discovery Island?

A. Yes, sir. [36]

Q. When you first heard the signal of the "Oceania Vance" what did you do?

A. Why the mate spoke to me, he said there was a sailing vessel, the "Oceania Vance," blew three



(Testimony of Capt. L. B. Lovejoy.)

whistles on a hand horn, and three whistles indicate that the vessel has the wind abaft the beam, and also three whistles, a long and two short whistles is a signal allowed by a barge or sailing vessel being towed by a tug, they can make that to show that they are being towed. I heard the whistle so plainly, and the mate said there was a vessel ahead on the starboard bow, and I said, "Are you sure it is not the barge starting to blow?" and he says, "No, I am quite certain it is ahead; it sounded quite loud," and he answered the whistle right away and almost immediately she blew another whistle, and then I was satisfied she was right ahead on the starboard bow, and I got into the pilot-house, and the mate stopped her and started to back, and when I got into the pilot-house the bow of the vessel was coming out of the fog ahead and heading directly for us.

Q. How far could you see in that fog?

A. I estimated the schooner was probably 200 feet away from us, 175 or 200 feet, as near as I could judge.

Q. Now, when you first saw the schooner, all you could see was the bow?

A. I could see the bow and the headsails.

Q. And the barge was how far behind the "Sea Lion," how much chain did you have out?

A. We had 150 fathoms of manila rope, and about 48 fathoms of wire. [37]

Q. The wire was fastened to the chain on the barge?

A. The chain was just clear of the hawse-pipe.

(Testimony of Capt. L. B. Lovejoy.)

Q. You could not see the barge at this time?

A. No, sir.

Q. Well, did you notice how many sails the "Oceania Vance" had up at that time?

A. She had all her lower sails and the mizzen gaff-topsail.

Q. Were they all full and drawing?

A. They certainly were.

Q. When you say the mate backed the "Sea Lion" immediately? A. Yes, sir.

Q. Did she then start forward again or continue backing until the time of the collision?

A. Well, when I got in the pilot-house and he said she was backing, I looked over the side and she still had her headway on her going through the water although the engines were reversed, and the "Sea Lion" was a vessel that when she backed she would throw her stern right around to port, she would back right in line with the way the vessel was coming, and I was afraid that the hawser might wind up in the wheel, so I decided I could clear the vessel by going ahead full speed, and I immediately hooked her on full speed ahead, and I motioned to the man on the lookout of the schooner to put his wheel over to clear us, and we were very full of coal and she picked up her headway very slowly.

Q. About how much headway did she have on at that time? A. The "Sea Lion."

Q. Yes.

A. At the time of the collision. [38]

Q. Yes, sir.

(Testimony of Capt. L. B. Lovejoy.)

A. I should judge she was going about two or three miles an hour.

Q. Was the towing hawser slack or taut?

A. It was slack.

Q. Well, what angle did the "Oceania Vance" hit the "Sea Lion"?      A. Nearly right angles.

Q. Do you know how much of a hole it made in the "Sea Lion"?

A. Why, she opened her up between the frames, I should judge a hole was about that way (Indicating about 18 inches).

Q. That would be about a foot and a half or so?

A. Yes, sir.

Q. That is you mean in length?

A. No, I mean in width. I don't know how far down she cut.

Q. Was there anything that you could have done to have saved the "Sea Lion"?      A. No, sir.

Q. Could you have got your pumps to working and pumped her out?

A. No, the pumps would not take care of it.

Q. How long did you remain on the "Sea Lion" after the "Oceania Vance" struck her?

A. Well, I should judge about a minute.

Q. Did you get your boats out?

A. No. When the "Oceania Vance" came in on us her headgear raked right over the aft end of the house, taking the [39] mast, bell-pulls, davits and the boats out, knocking one boat off the top of the house, and the davit.

Q. You got on the schooner how?

(Testimony of Capt. L. B. Lovejoy.)

A. Climbed up over her headgear.

Q. How many tons of coal did the "Sea Lion" have on at that time?     A. About 155.

Q. Full bunkers had she?     A. Yes, sir.

Q. And water?     A. Yes.

Q. The water-tank was aft?     A. Yes, sir.

Q. You got fuel and water where?

A. Ladysmith, British Columbia.

Q. Now, how was the fog at the time of the collision, very thick?

A. Yes, at that time it was very thick.

Q. And the wind you say was about 15 or 20 miles an hour?     A. Yes, sir.

Q. What direction was the wind blowing?

A. About southwest.

Q. From the southwest?     A. Yes, sir.

Q. When the mate heard the whistle of the "Oceania Vance" what did he do port or starboard his wheel?

A. After he heard the second whistle he put his wheel hard a starboard.

Q. Did the tug swing any?

A. She swung some, probably two or three points, two [40] points maybe, she was very slow answering her helm.

Q. Do you know how many fathoms of water there were at the place where the collision occurred?

A. 72 fathoms.

Q. How did you ascertain that?

A. By sounding.

Q. When?

(Testimony of Capt. L. B. Lovejoy.)

A. After we had gone back and picked up the barge. The barge was still attached to the "Sea Lion," and we sounded to see how deep the tug was down.

Q. The "Sea Lion" acted as an anchor for the barge?     A. Yes, sir.

Q. You went back the following day and took the barge?     A. Yes, sir.

Q. Do you know how long the "Sea Lion" remained afloat after the collision?

A. I should judge about three minutes.

Q. Do you know how long the "Sea Lion" was?

A. About 107 feet between perpendiculars.

Q. What was her beam?     A. 22 feet, I think.

Q. How much did she draw?     A. 14 feet.

Q. Do you know how much water there was in the tug immediately after the collision?

A. The forecastle was right aft on the "Sea Lion," aft of the engine-room below the main deck, and when the "Oceania Vance" struck us, she struck us just aft of the house, and the fireman was asleep in his bunk, and when he stepped out on the floor he was up to his ankles in [41] the water. When we left the "Sea Lion" the water was up over the bottom bunks in the forecastle.

Q. How long did the "Oceania Vance" remain in the neighborhood where the collision occurred before she went on her course again?

A. Why, we filled away—she stuck in the hole for about a minute, I presume, and the sails forcing the "Sea Lion" around, and the minute she got her



(Testimony of Capt. L. B. Lovejoy.)

*heard* into the wind the sails broke aback and she got out of the hole, and we filled away until we got headway enough on her to come about, we came back to the barge and the "Sea Lion," and I should judge it probably took us 15 minutes to get back in the vicinity of the barge; we came in to the windward of the barge and we told the men on the barge to keep hold of the "Sea Lion's" hawser until we came back to relieve him, and I should judge it took us thirty or forty minutes.

Q. Then the schooner proceeded upon what course?     A. About east by north.

Q. That would enable her to pass Dungeness light?

A. Yes, sir.

Q. Now, how was the wind after the schooner proceeded on her course, with reference to the wind just prior to the collision?

A. Well, the wind moderated right along, gradually.

Q. How fast did the "Oceania Vance" proceed after she proceeded on her course to Dungeness?

A. Well, I took the log, I guess it was about 15 or 20 minutes after we squared away on our course to Dungeness, for the first half hour on our run on the [42] square-away, she ran about three and a half knots, on the patent log.

Q. She had a patent log?     A. Yes, sir.

Q. The wind was not as fresh as it was just prior to the collision?

A. No, it was gradually dying out. Died down



(Testimony of Capt. L. B. Lovejoy.)

until after we passed Dungeness we were practically becalmed.

Q. Did you say on what course the schooner was proceeding prior to the collision?

A. Just about the same course as we did afterwards.

Q. Do you know whether she had been tacking back and forward in the straits during the night?

A. Yes, she had.

Q. Do you know how long before the collision she had wore ship?

A. About twenty minutes, they told me.

Mr. TRUMBULL.—I object to what they told you.

Q. *Do* told you that?

Mr. TRUMBULL.—I object on the ground that it is hearsay.

Q. Who told you?

A. Why, the captain and the mate both.

Q. You were just dressed in your pajamas at the time of the collision? A. Yes, sir.

Q. Was there any of the rest of the crew asleep, if you know?

A. No, nobody asleep at the time. Some of them were in bed but they had not gone to sleep.

Q. But it took you practically no time to go from your [43] berth into the wheel-house after you heard the signal? A. No, sir.

Q. Who else was there, anyone else on watch with the mate at the time and shortly prior to the collision? A. Yes, sir.

Q. Do you know where he is? A. No, I do not.

(Testimony of Capt. L. B. Lovejoy.)

Q. How long had it been daylight at the time, if you know?

A. Well, it was the 9th day of June it happened, and on the 22d of June it is the longest day of the year. I suppose it had been daylight something like three hours.

Q. How fast was the tug-boat going prior to the collision?     A. About four knots.

Q. How many pounds of steam?

A. Carried about 65 pounds of steam.

Q. How much were you allowed to carry?

A. I could not say as to that, but I think it was 80 or 90 pounds she was allowed.

Q. You had a long hawser with a large barge with a heavy load?     A. Yes, sir.

Q. And you were unable to make any great amount of speed?     A. Yes.

Q. Were the pilot-house windows open or closed?

A. Open.

Q. What time was it when you were abreast of Dungeness, if you remember?

A. Well, I could not say. I think we got into Port Townsend about four o'clock in the afternoon. [44]

Q. Was there anything that you could have done after you saw the "Oceania Vance," to have averted the collision?

Mr. TRUMBULL.—I wish to object to that, it calls for a conclusion of the witness and not for any fact.

A. Why, I do not think there was anything that we could have done that we did not do. If we could

(Testimony of Capt. L. B. Lovejoy.)

have got 12 feet forward, if we had got 12 feet further ahead, the "Oceania Vance" would have struck us in the water-tank and the tug would not have sunk. They missed it by about 12 feet.

Q. Where was the place where the collision took place with reference to some known object?

A. It was about four miles east of Race Rocks.

Q. Directly east?

A. Well, I think a little to the north of east, if I remember correctly. I know at the time we took cross-bearings at the place where the "Sea Lion" sank.

Q. Is this place where the collision happened a place that is frequented by ships, is it in the regular course of ships?

A. Not for ships bound for Port Townsend.

Q. Not for ships bound for Port Townsend but ships do pass.

A. A sailing vessel in that position we would naturally suppose she was bound for Royal Roads. He was on the other track headed for Dungeness.

Q. But that is a place where ships pass frequently, is it?

A. Very seldom sailing vessels are in that locality.

Q. Yes, but there are ships passing frequently this point. That is the regular course of ships around there? A. Yes, sir. [45]

Q. But you would not expect to see sailing ships bound on that course, but there is plenty of shipping in there?

A. There are plenty of steamers. It is pretty near

(Testimony of Capt. L. B. Lovejoy.)

the route for Victoria, steamers passing into that port.

Q. This is a correct chart, is it, of the straits between Waldron Island and Flattery?     A. Yes, sir.

Q. Now, will you indicate on this map about where you were at the time of the collision?

A. Here is Discovery Island, and right across from Discovery Island would take us right out about here.

Q. Will you mark about where you were coming before you changed your course?

A. Coming to about here. On this course we would get Race Rocks sounding abeam and then we would change our course.

Q. That point there?     A. Yes, sir.

Q. Which we will mark "A."     A. Yes, sir.

Q. Now, about where did the collision take place?

A. The collision took place about here.

Q. We will mark that point about here then "B." About how far away were you from Discovery Island when you passed it?

A. We passed Discovery Island about a mile and a half according to the mate's report.

Q. Somewhere about there.     A. Yes, sir. [46]

Q. Which we will mark as "C."

A. Passing a point in the fog, we take what we call a four-point bearing, and when we get four points on our bow we take the fog-horn, you understand four points on the bow, and then we know how fast we are going, and the time that it takes to get it four points on the beam, and that is the way we estimate our distance in a fog like that.

(Testimony of Capt. L. B. Lovejoy.)

Q. Then your course from the time you passed Discovery Island would be approximately a straight line between two points "B" and "C"?

A. Yes, sir.

Q. Indicated by this line drawn on the chart between these two points?     A. Yes, sir.

Q. This is Royal Roads anchorage here.

A. Yes, sir.

Q. And you thought a schooner headed off there should come out of Royal Roads or for Victoria, or what?

A. I thought she was probably a sailing vessel bound out of Royal Roads. The schooner's position was something like this.

Q. And you met at this point at right angles?

A. Yes, that is a natural supposition to meet a sailing vessel in a southwest wind blowing three whistles that she had the wind abaft her beam, she would be heading for anchorage in there instead of heading across here.

Q. She was heading this way for what reason?

A. To get the wind so that all her sails would draw.

Q. In the position she was headed a strong wind was blowing [47] that would cause all her sails to draw.     A. Yes, sir.

Q. And they were drawing at the time of the collision?     A. Yes, sir.

Q. And her course was past Dungeness point down here?     A. Yes, sir.

Q. And she sailed straight across for there after the collision?

(Testimony of Capt. L. B. Lovejoy.)

A. Yes, we passed Dungeness quite a ways off.

Q. Do you know on what course the "Oceania Vance" had proceeded prior to the time she wore ship shortly before the collision?

A. Well, I only know from the remarks of the captain and mate.

Q. What were they?

Mr. TRUMBULL.—I object as hearsay.

A. He said they wore ship on the American shore, I do not recollect the exact time, and he stood in and heard the horn on Race Rocks, and stood in over there to the northward, and then when they were pretty sure of their position, they wore ship and headed for Dungeness.

Q. Did they say at what point on the American shore they had worn ship?

A. He did not say the American shore, he did not say exactly what point it was, but to sail in by Race Rocks and get in the position he was when he wore ship he must have been in the neighborhood of Port Crescent.

Q. Well, in order to get into Port Crescent must he, after passing Flattery, did he make a straight course for Port Crescent or ware ship toward the Canadian shore and [48] tack?

A. According to the talk they wore ship two or three times during the night. The general course of sailing ships proceeding up the straits with a fair wind is not to make a straight run for the destination, but so change their course that all their sails will draw, and make a long leg of it with a fair wind.



(Testimony of Capt. L. B. Lovejoy.)

Q. Did the wind remain in about the same direction throughout the night?

A. As to that I could not say. Where we were at Waldron it was calm when we left there, and we did not get the wind until we got to Discovery Island.

Q. And that is where you first got the fog?

A. Yes, sir.

Q. And the fog remained throughout the night, but was it at times thicker than other times?

A. Oh, yes.

Q. And as to the point of collision you say it was pretty thick there?

A. Yes, sir. We had no fog until we got to Discovery Island.

Cross-examination.

Q. (Mr. TRUMBULL.) Captain, all you know about the movements of the schooner during the night is what you gathered from the conversation of the captain and the crew? A. Yes, sir.

Q. You did not see the schooner until you got up in the morning? A. No, sir. [49]

Q. Now, what time was it that you went to bed that night? A. 1:25, somewhere in that neighborhood.

Q. When did you wake up in the morning?

A. When we passed Discovery Island the mate started the fog-whistles.

Q. And the blowing of the fog-whistle woke you up? A. Yes, sir.

Q. What kind of whistles were they blowing at that time? A. One long and two short.

Q. Does the log show the character of whistle you

(Testimony of Capt. L. B. Lovejoy.)

were blowing?      A. Whose log?

Q. The log of the "Sea Lion"—that has gone down, though.

A. The log of the "Sea Lion" has gone with the rest of my effects.

Q. How long did you remain awake at this time?

A. Oh, I dozed along, would sleep a few minutes then wake.

Q. Did you look out and see what was the character of the weather?

A. When we first started whistling I got up and looked out of the aft door in my room, I had a door in the aft end of the room and I could look out and see the outline of the barge at that time.

Q. And you were off Discovery?      A. Yes, sir.

Q. Well, when was the next time you woke up?

A. I looked out again when we were off Trial Island.

Q. Where is Trial Island?

A. Trial Island is right out of Victoria. Here it is on the chart. [50]

Q. About how far off Trial Island were you?

A. I should judge about two miles, a mile and a half or two miles.

Q. About what time was that?

A. Well, now, it is pretty hard for me to say.

Q. I understand that.      A. I could not say.

Q. Approximately.

A. I should judge about 5 o'clock.

Q. Then you went back to bed again.

A. Yes, sir.

(Testimony of Capt. L. B. Lovejoy.)

Q. Well, when you woke up again where were you?

A. Well, I was lying awake most of the time, I was resting as I expected to have a long watch ahead of me after I did get up.

Q. You dozed from time to time, I suppose.

A. Yes, sir.

Q. A person does. Well, what next called your attention?

A. Why, I was awake when I first heard three whistles on one of these automatic hand horns.

Q. You could tell it was with a hand horn?

A. Oh, yes.

Q. Then what did you do?

A. The mate returned his horn immediately. I had been talking to him a few minutes before he said it was a sailing vessel blowing three whistles on our starboard bow and I suggested that it might be the barge we were towing starting to blow three whistles, a long and two short whistles on the hand horn is rather hard to regulate and one is apt to get one longer than the [51] *the* other. The first whistle we heard sounded like it might be a long with the two just a trifle shorter.

Q. Well, what did you do?

A. Why, the mate immediately blew a towing whistle again, and the fellow on the vessel answered almost immediately with three more whistles, and they were very close. I immediately got up, and the mate he stopped the tug and backed.

Q. The mate did. A. Yes, sir.

Q. How long did he back?

(Testimony of Capt. L. B. Lovejoy.)

A. He backed from the time he heard the three whistles until I got out of bed and got in the pilot-house, probably about 10 or 12 seconds, just got her to about backing up when I got in there.

Q. You did not take time to dress?     A. No, sir.

Q. You ran in in your pajamas. Why did you hurry?     A. The whistle sounded very close.

Q. By this time you had changed your mind about it being the barge?     A. Yes, sir.

Q. I understand that the pilot-house communicates with your cabin. What did you do when you got into the pilot-house?

A. Why, the mate reported to me that he was backing up on her, and just as I looked out of the window I could see the head-gear and bow of the schooner come out of the fog, and you could see the white water under her bow, and she was heading just about for the pilot-house, [52] and I looked over the side and we were still moving perceptibly ahead, probably at a speed of about a mile an hour.

Q. You had not overcome your momentum.

A. No. The "Sea Lion" had a habit when you backed her of swinging right around to port very abruptly. She always did that when backing up and I figured if we kept backing she would back right in front of the schooner, and by going ahead full speed we could possibly clear the vessel which I immediately signaled the engineer to do. I sent the mate below to watch the hawser to see if it had sucked down under the stern when we were backing.

(Testimony of Capt. L. B. Lovejoy.)

Q. As a matter of fact did the "Sea Lion" swing around to port?

A. She did not swing but very little. I could not say just how much, I did not watch the compass, and the only way you could tell would be by watching the compass and I did not look down.

Q. You knew that was a habit of hers? A. Yes.

Q. And you were afraid of it? A. Yes, sir.

Q. And that was the reason you changed from backing to full speed ahead? A. Yes, sir.

Q. You said something about signaling to the people on board the schooner. A. Yes, sir.

Q. What did you do?

A. Why, they had a man on the lookout on the schooner and [53] I motioned for him and hollered to him to put the wheel over and that would give us a little more time to get by him, but as near as I could see they made no perceptible change in the vessel's course.

Q. Do you know whether or not they put the wheel over? A. I do not.

Q. But as far as you could judge from your position, she apparently did not change her course in any perceptible degree?

A. No, as I remember the testimony of the United States inspector's office, the captain testified that he did not put the wheel over, because he thought it would be impossible and would make no perceptible difference in the course and there was bound to be a collision anyway.

Q. That is your recollection of what he testified



(Testimony of Capt. L. B. Lovejoy.)

at that time.      A. Yes, sir.

Q. Now, when you got into the pilot-house and saw the bow of the schooner, about how far were the two vessels apart, according to the best of your judgment?      A. Oh, I should judge about 200 feet.

Q. You say that this was a very thick fog.

A. Yes, sir.

Q. Now, do I understand you, Captain, to say that up in this neighborhood, where you have marked here, is not a course where schooners and windjammers and various kinds of vessels are apt to be?

A. Yes. They are apt to be up that way, but not bound for Puget Sound or Port Townsend. A vessel in that position would naturally be assumed to be bound for Royal Roads. [54]

Q. Did you assume that this vessel was bound for Royal Roads when you heard her whistle first?

A. The first time I heard her whistle I assumed that it was the barge astern of us. The second time I had no doubt about it, because that time the whistle was so close aboard.

Q. Well, then, it would not indicate that she was bound for Royal Roads or where bound, as far as the facts and circumstances connected with this case are concerned.

A. No. The only difference it would make, if she had been bound for Royal Roads there would have been no collision.

Q. If she had been headed another way.

A. Yes, sir.

Q. This place where you have marked B, is that



(Testimony of Capt. L. B. Lovejoy.)

where the collision occurred? A. Approximately.

Q. And you were headed for this point A?

A. Yes, sir.

Q. Where you would have changed your course?

A. Yes, sir.

Q. Now, a schooner coming up the straits, even with a fair wind, she, as you stated, necessarily tacks?

A. Not necessarily. They tack for the reason they can get more speed by getting all their sails to draw by taking the wind from the quarter.

Q. Of course, that is the reason for tacking.

A. A schooner with a fair wind, if she was proceeding in a straight line, would not make as great speed as she would by tacking and taking the wind at an angle.

Q. Because the stern sails would catch the wind and kill [55] the others.

A. That is the idea exactly.

Q. Was this such a wind that she could have come up the straits without tacking? A. Certainly.

Q. That is what you would call a fair wind?

A. Fair wind, yes, sir.

Q. You haven't any idea what speed the "Oceania Vance" was making, have you? A. Yes, sir.

Q. What is your idea?

A. I presume she was making in the neighborhood of eight knots.

Q. Why do you presume that?

A. Because, after the collision and after we squared away with a more moderate breeze her own log showed a register of seven knots an hour.

(Testimony of Capt. L. B. Lovejoy.)

Q. That is after she picked you boys up?

A. Yes.

Q. And so you assumed that prior to the collision she was making at least that speed? A. Yes, sir.

Q. Supposing you had continued to back up, don't you think you would have avoided the collision?

A. Well, it is questionable whether we would or not. The schooner had the wind on her starboard quarter, and she was making more or less leeway, she would be setting down on us; if we had backed up we would have been in such shape that neither one of us could have got clear as near as I could figure it out, that is the way it [56] looked to me. We took the chance if we backed up of getting the hawser in our wheel where we would have been perfectly helpless.

Q. And so judging all the circumstances as they presented themselves to you in this hurried moment, you decided that full speed ahead was the best course for all concerned.

A. Yes. If the mate had not stopped the vessel, if he had proceeded as we were going, the schooner would have passed between us and the barge, over our tow-line.

Q. If the mate had not stopped.

A. Yes, but the law requires you to use all precaution in nearing a vessel in a fog.

Q. And you endeavored to follow it.

A. Yes, sir.

Redirect Examination.

Q. (Mr. RUPP.) That is the rule in meeting a

(Testimony of Capt. L. B. Lovejoy.)

vessel in a fog, apparently under the circumstances that you met this vessel, you are to stop and back full speed astern.     A. Stop your vessel, yes.

Q. Do you remember asking the mate just before this collision what time it was?

A. I could not say that I did.

Q. But you were awake.

A. Oh, yes; I was awake at the time.

Q. Before you heard the whistle.     A. Yes, sir.

Q. The first signal of the schooner.     [57]

A. Yes, sir.

Q. You have testified that the "Sea Lion" had its full complement of officers and crew. Was she in other ways well equipped and appareled?

A. Yes, sir.

Q. The course that you took after you passed Discovery Island, and the course on which you were proceeding at the time of the collision, is the ordinary and usual course for steam vessels proceeding out towards the straits?     A. Yes, sir.

Mr. RUPP.—I offer in evidence the chart identified by the witness, with the marks on it, in connection with the testimony of the witness.

Chart marked Libellant's Exhibit "A," filed and returned herewith.

Hearing adjourned, to be resumed by agreement.  
[58]

Seattle, Washington, April 22, 1912.

PRESENT: Mr. HUGHES, for the Libelant.

Mr. TRUMBULL, for the Claimant.

**[Testimony of William J. Smith, for Libelant.]**

WILLIAM J. SMITH, a witness called on behalf of the libelant being duly sworn, testified as follows:

Q. (Mr. HUGHES.) Mr. Smith, what is your business? A. Marine engineer.

Q. How long have you been a marine engineer?

A. Since 1902.

Q. Were you chief engineer on the tug "Sea Lion" at the time of her collision with the "Oceania Vance," in June, 1909? A. Yes, sir.

Q. How long had you been chief engineer of that tug?

A. Since the latter part of March sometime.

Q. At the time of this collision what voyage was the "Sea Lion" prosecuting?

A. Why, she had a barge, I do not know the name of it, but she was bound for Gray's Harbor.

Q. Towing a barge with stone? A. Yes, sir.

Q. From what island?

A. Waldron Island.

Q. Bound for where? A. Gray's Harbor.

Q. Were you on duty at the time of the collision?

A. No, sir.

Q. Who was on duty?

A. Mr. Lewis, the assistant.

Q. Approximately, what was the length of the "Sea Lion"? [59]

A. 107 to 109 feet, something like that.

(Testimony of William J. Smith.)

Q. Where was the engineer's cabin located?

A. Just forward of the engine-room on the star-board side.

Q. On the main deck.      A. On the main deck.

Q. And the captain's cabin and the pilot-house were above.      A. Yes, sir.

Q. Where was the engine-room with reference to that cabin?      A. Aft of my room.

Q. On the same level or below?

A. Just a trifle below, three or four feet below; it took in the hull part of the boat, you know, the engine-room.

Q. What time did you retire that night?

A. One o'clock or a little after, maybe.

Q. And when would it have been time for you to go on duty again?

A. Seven o'clock in the morning.

Q. Did you hear fog-whistles at any time in the early morning?      A. Yes, sir.

Q. Do you remember about how early it was when you first heard the fog-whistles on your own boat?

A. I would not know how early it was. I could hear them maybe an hour or two; I should judge it might have been half past four or five o'clock, something like that.

Q. You awoke at the time you heard your vessel?

A. Yes, sir.

Q. Did you look out and learn whether there was any fog, or have any other means of knowing except by your own whistle?

A. No, I did not look out. [60]

(Testimony of William J. Smith.)

Q. How were the whistles sounded?

A. One long and two short.

Q. At about what intervals?

A. About a minute or less.

Q. Now, did you fall asleep again after hearing the fog-whistles first?     A. Yes, sir.

Q. About when, with reference to the collision, did you wake up?     A. Just shortly before.

Q. Had anything unusual occurred to wake you, or did you wake naturally?

A. No, I heard the bells ring in the engine-room.

Q. What bells did you hear?

A. The stop bell and back bell.

Q. Was that unusual at that place in your trip?

A. Yes, unusual.

Q. Did that attract your attention?

A. Yes, sir.

Q. How many bells were given to stop?

A. Two bells.

Q. Is that the regular signal?     A. Yes, sir.

Q. And how soon after that were bells given to reverse?

A. Well, I could not tell; it was very shortly after that, right away you might say.

Q. How many bells are given for reversing full speed?     A. Two bells to back up.

Q. You heard these two signals did you; then what did you do?     A. I got up and looked out. [61]

Q. Which side of the ship was your window on?

A. The starboard side.

Q. Did you open your window to look out?



(Testimony of William J. Smith.)

A. Yes, sir.

Q. What occurred and what did you see?

A. Well, I did not see anything just for a second until I looked again and then I saw this vessel coming into us.

Q. Do you remember at or about the time of hearing these bells and getting up, you heard any whistles from your boat?     A. Yes, sir.

Q. What was it?

A. Well, the first, just as I got up they blew their regular tow whistle.

Q. Fog-whistle you mean?

A. Yes, and when I looked out they blew the danger signal.

Q. Now, you say when you first looked out you did not observe anything, and then you noticed what?

A. I noticed this vessel right close to us.

Q. How did it appear to be approaching?

A. Head on, nearly so.

Q. How near did it seem to you to be?

A. Fifty or sixty feet.

Q. What did you do?

A. Why, I got out as quick as possible.

Q. Well, how would you get out?

A. I opened my door and came out on deck.

Q. The door on the port side.

A. Starboard side.

Q. The door is on the starboard side. [62]

A. Yes.

Q. You went from the window to the door and out on deck.     A. Yes, sir.

(Testimony of William J. Smith.)

Q. How soon after you got outside was it that this collision occurred?     A. Maybe half a minute.

Q. Well, as long as that, do you think, with reference to getting on deck?

A. Yes, might be or might not as to time.

Q. Did you hear any other signals to the engineer?

A. Yes, I heard the bell go ahead, full speed ahead bell.

Q. Now, when was that, about how long before the collision occurred?

A. Just barely—you might say no time at all, that is the way it would seem.

Q. Well, in any event, not more than a few seconds?     A. Seconds, it was down to seconds.

Q. Where did the "Oceania Vance" strike you?

A. About 20 feet forward of the stern.

Q. How did she strike, what kind of a blow?

A. Head-on blow, right straight in, very near.

Q. Well, with a good deal of speed or force?

A. Considerable force.

Q. How did it affect your boat?

A. Well, it listed her over pretty bad; had a tendency to shove her over quite a bit.

Q. How much of a hole did she cut into the "Sea Lion"?     A. I should judge three or four feet.

Q. Do you know about how far her bow plowed into the starboard quarter of the "Sea Lion"? [63]

A. About three feet I should say or maybe more.

Q. Well, did she remain like that with the "Sea Lion" for any time?

A. Yes, she was there for maybe three minutes,

(Testimony of William J. Smith.)

maybe less or maybe more, I would not be sure about it.

Q. In the meantime what occurred?

A. Well, the captain of the ship he told us to get off, he said he would hurry up.

Q. The captain of the "Oceania Vance"?

A. Yes, sir.

Q. Did the captain come forward on the bow of the ship?

A. Yes, when I saw him first that is where he was.

Q. He called to you and the others to get aboard his ship? A. Yes, sir.

Q. Did the crew of the "Sea Lion," including yourself, get aboard of the "Oceania Vance"?

A. Yes, sir.

Q. How did you get aboard?

A. Climbed up the back-stays or bob-stays, whatever they are.

Q. On the bow?

A. On the bowsprit or jibboom.

Q. How did the "Oceania Vance" get away from the "Sea Lion"?

A. She just naturally broke out; her own headway carried her out, I suppose.

Q. Swung out and broke loose? A. Yes, sir.

Q. Well, had the crew any more than time to get aboard of her before she parted from the "Sea Lion"?

A. No, sir; they did not have any more than time; just time enough to get away. [64]

Q. What kind of a ship was the "Oceania Vance"?

(Testimony of William J. Smith.)

A. Three-masted schooner.

Q. Did you notice her sails?      A. Yes, sir.

Q. How were they set?

A. They were all set—I would not say about her top-sails, but she had all her lower sails on.

Q. What occurred after that?

A. Well, we ran maybe a couple of minutes, three minutes maybe and tacked back again.

Q. You all turned loose and helped swing her sails over?

A. Everybody gave them a hand to get her around into the wind.

Q. When she got back where was the “Sea Lion?”

A. She was gone; she was sunk out of sight.

Q. At that time did you see the barge that was in tow?

A. No, we did not see her until we came back again, then we seen the barge.

Q. Did you pick up the barge and speak to her?

A. Yes, sir.

Q. Then what did the “Oceania Vance” do?

A. They started away then for Port Townsend.

Q. Came with her into Port Townsend, did you?

A. Yes, sir.

Q. Did you notice what speed she made right after this collision?      A. Seven knots.

Q. Did you have any conversation with the captain of the “Oceania Vance,” as to what speed she had been making prior to the collision? [65]

A. I did not hear them say prior to that, but at the

(Testimony of William J. Smith.)

time they said they figured that they were making seven knots.

Q. Would the noise of the engine-rooms below you prevent your hearing the signals from another vessel outside?     A. Oh, yes.

Q. Then you do not know anything about whether any signals were given from the "Oceania Vance" or not, that is from what you heard?     A. No, sir.

Q. You did not hear anything?     A. No, sir.

Cross-examination.

Q. (Mr. TRUMBULL.) You were one of the engineers, Mr. Smith?     A. Yes, sir.

Q. You wakened on this particular morning by certain signals given the engineer?     A. Yes, sir.

Q. What was the first signal that you heard?

A. Heard the stop bell.

Q. A stop bell?     A. Yes, sir.

Q. That is the two signals.

A. One is to slow down and another one is to stop, entirely.

Q. Well, this was the stop signal that you heard first?     A. Yes, sir.

Q. Had there been any slow-down signal?

A. Not to my knowledge, not before that.

Q. If there had been you probably would have heard it?

A. I very likely would have wakened up; might not.

Q. Just as liable to have heard it as you were to have heard [66] the stop signal?     A. Yes, sir.

(Testimony of William J. Smith.)

Q. How long after the stop signal did you hear the reverse signal? A. Well, it was right away.

Q. It followed immediately? A. Yes, sir.

Q. Then what other signal came after that?

A. Go-ahead signal.

Q. How long after the reverse did the go-ahead signal come? A. Right away, not very long.

Q. Just followed immediately?

A. Not immediately, you know.

Q. Within a few seconds?

A. Yes, I could not say without the time, you know. I was out of the engine-room; if I had been in the engine-room I could have paid attention to the exact time.

Q. But in your opinion now, at this time, would you say it was right immediately?

A. Well, very nearly so, not immediately; not long afterwards no time elapsed, you know, that you could call it any time.

Q. Would you call it a minute?

A. Might or might not. If you were paying strict attention; might probably be a minute; if I had been in the engine-room, then I might know, you know.

Q. But you cannot state now what particular space of time it was?

A. Well, might be a minute or might be right away quick, you see.

Q. Well, when the go-ahead signal was given, what did you do? [67]

A. Why, I ran to the engine-room and told the engineer on watch to hook her on.



(Testimony of William J. Smith.)

Q. You ran to the engine-room? A. Yes, sir.

Q. You left your stateroom. Does the stateroom open into the engine-room? A. No, sir.

Q. You went out on deck and went to the engine-room?

A. I was on deck at the time that the go-ahead bell was given.

Q. Well, now, then, where were you when the signal to reverse was given? A. In my room.

Q. You jumped up then? A. Yes, sir.

Q. And went outside? A. Yes, sir.

Q. And after you got outside, why the go-ahead signal was given? A. Yes, sir.

Q. Could you see the schooner at that time?

A. Yes, sir.

Q. Where was the schooner?

A. She was on our starboard side.

Q. About how far off?

A. I guess 50 or 60 feet; that is my judgment.

Q. You were on deck at that time? A. Yes, sir.

Q. Was that the first time you had seen the schooner? A. Yes, sir.

Q. You did not see her from the time you were in your cabin? [68]

A. Well, I just imagined I did and stuck my head out to see.

Q. But you were not positive that you did see her?

A. No, I would not be sure that I did; then I was out on deck and I knew I seen her.

Q. And she was about 50 or 60 feet, in your opinion, from the tug? A. Yes, sir.

(Testimony of William J. Smith.)

Q. And the tug and the schooner were approaching each other?     A. They certainly were.

Q. At least you supposed they were.

A. Yes, sir.

Q. You were on deck when the collision took place?

A. Yes, sir.

Q. Did you hear the fog-horn of the schooner while you were on deck?     A. No, sir.

Q. You were considerably excited during that time?

A. Well, no, not as much as I was afterwards.

Q. Did it appear to you, when you were on deck before the collision, that there was a collision inevitable?

A. It was bound to happen unless something out of the ordinary would stop it, you know.

Q. After the collision and you were taken on board the schooner, you were taken to Port Townsend, were you not?     A. Yes, sir.

Q. Now, you stated to Mr. Hughes, that the schooner was going seven knots an hour after you got aboard?     A. Yes, sir.

Q. How do you know?

A. Well, I just know from what I heard the men say there. [69]

Q. Who did you hear say?

A. Well, I would not be sure whether the captain spoke or the mate, but I heard them say seven knots.

Q. That is all you know about it?     A. Yes, sir.

Redirect Examination.

Q. (Mr. HUGHES.) You spoke of the two bells,

(Testimony of William J. Smith.)

being one to slow down and the other to stop. In this instance were they given one immediately after the other?

A. Well, that is the way it sounded to me.

Q. Well, when a vessel is going along at a given rate of speed and wants to stop?

A. When they are going to stop quick they just bring the two of them right together. If they want to slow down they ring the slow bell, maybe a minute or half a minute or maybe longer between.

Q. How was it in this instance?

A. Well, I could not be sure just how long it was; but they were very close together, you see.

Q. And then, of course, the two bells to reverse.

A. Yes, sir.

Q. You said in answer to Mr. Trumbull, that the two ships were approaching each other. When you came outside and saw the "Oceania Vance," what was her position with reference to the position of the tug?

A. I meant to tell the gentleman that one was approaching but the other one was not, as near as I could see the ship was approaching us.

Q. The tug was crossing her bow? [70]

A. Yes, sir.

Q. And when you came outside of your door on deck, about what part of the ship did you stand in, where was your cabin door?

A. It is very near amidships.

Q. Now, which side of you was the "Oceania Vance" heading?

(Testimony of William J. Smith.)

A. Very near right where I stood.

Q. Heading apparently right amidships?

A. Yes, sir.

Q. And you picked up enough speed so that when she actually collided with you, how far back did she strike?

A. Well, it would be twenty feet from the stern.

Q. Be somewhere about 40 or 50 feet back of you?

A. Yes, back of where I was.

Q. You testified on your cross-examination that when you heard this go-ahead signal, you stepped to the engine-room door and told the assistant to hook her on?     A. Yes, sir.

Q. What reply did he make to you?

A. He says, "She is."

Q. She is already hooked on?     A. Yes, sir.

Q. After you had got aboard the "Oceania Vance" and had left the scene of the collision on your way to Port Townsend, how were the wind and the fog, did they remain the same?     A. No, sir.

Q. What difference was there?

A. The wind moderated and the fog cleared up. I did not notice just the time. I did not pay much attention to the time when it did clear up. But it cleared up shortly [71] afterwards, probably ten o'clock, maybe nine o'clock, somewhere along there, I would not be sure. The wind moderated right away.

Q. As a man accustomed to the sea, what is the fact in respect to the wind in case of fogs on the straits?

(Testimony of William J. Smith.)

A. Well, it is generally a good fresh breeze as long as it is foggy.

Q. How is it as the fog clears?

A. Generally the wind stops; that is to my knowledge. Some men might think different things.

Q. (Mr. TRUMBULL.) Do you say, Mr. Smith, that when there is a fog there is generally a fresh breeze?

A. Well, in that particular time of the year there is more wind, every time you see a fog in the straits you see a fresh breeze of wind.

Q. That would be in June?

A. Along in the summer-time it is westerly winds you see.

Q. Well, is it not a fact that invariably during fog there is not any breeze to speak of?

A. Well, I would not say invariably. Up in here probably and other places. Sometimes you might see it down there when there is no wind at all.

Q. But as a general proposition on the straits, is it not a fact that during periods when there is a fog at all there is no breeze to speak of?

A. Oh, yes, there are periods when there is no wind at all.

Q. Have you had very much experience in sailing the straits?

A. Well, I have been on these towboats up and down here for very nearly ten years now. [72]

Q. What are you doing now, Mr. Smith?

A. I am working for the Puget Sound Tug-boat Company.

(Testimony of William J. Smith.)

Q. Been working for them all the time?

A. Well, most of the time.

Q. You are in their employ now?      A. Yes, sir.

(Testimony of witness closed.) [73]

**[Testimony of C. H. Lewis, for Libelant.]**

C. H. LEWIS, a witness called on behalf of the libelant, being duly sworn, testified as follows:

Q. (Mr. HUGHES.) What is your business, Mr. Lewis?      A. Marine engineer.

Q. How long have you been a marine engineer?

A. Since 1902.

Q. Were you assistant engineer on the "Sea Lion" at the time of the collision between the "Oceania Vance" and the "Sea Lion"?      A. Yes, sir.

Q. How long had you been on her?

A. Three years.

Q. Were you on duty at the time of the collision?

A. Yes, sir.

Q. How long had you been on duty?

A. Since one o'clock.

Q. How is the engine-room situated with reference to the deck of the "Sea Lion"?

A. About three feet below the working platform.

Q. The door opened out so that you can look across the rail of the "Sea Lion"?

A. Yes, sir, a door on each side you can look out.

Q. And your platform is high enough so that you can see over the rail?      A. Yes, sir.

Q. As you look out through the door?

A. Yes, sir.

Q. Did you observe, while on duty, about what



(Testimony of C. H. Lewis.)

time the fog came on that morning?

A. Well, I know by the time the whistle started. I looked out [74] then. It was four o'clock.

Q. How were the whistles sounded then, from that on all the time until the collision?

A. Regularly, about every minute.

Q. What whistle was given?

A. Long and two short.

Q. You had a tow, did you?      A. Yes, sir.

Q. What tow?

A. We had a stone barge for Baldwin Island, Grey's Harbor.

Q. The barge was on how much of a hawser?

A. I do not know that, I could not say.

Q. What was the first thing that occurred that attracted your attention, with reference to the proximity of another ship?      A. The stop bell.

Q. You had not heard any whistles from any other ship?      A. No, sir.

Q. If they had been given you would not have heard them on account of the noise in the engine-room?      A. No, sir.

Q. But you could hear the whistles of your own ship?      A. Oh, yes.

Q. Now, what was the stop bell?      A. Two bells.

Q. What speed had you been going before you received that stop bell?

A. Going about three quarters.

Q. That would be about what speed?

A. Under the jingle. It is just the same as two bells, stops [75] her. That is to say if you do not

(Testimony of C. H. Lewis.)

get confused on your bells.

Q. You say you were going three-quarters speed; about what speed is that?

A. What do you mean, the revolutions?

Q. How many revolutions were you going?

A. About sixty-five.

Q. What are your authorized revolutions, what revolutions can you make, or do you make, full speed?

A. Well, I don't know; very seldom we run full speed, that is drive her. I do not know what she would do if driven. We make about 90 turns.

Q. While running with your tow was she heavily laden at that time? A. Yes, loaded with stone.

Q. The tow was? A. Yes, sir.

Q. And how was your own ship?

A. She was loaded too.

Q. With what? A. Coal.

Q. How much coal did she have aboard?

A. About 150 tons I guess or 155 tons.

Q. Had she just taken on coal at Ladysmith before starting on the trip? A. Yes, sir.

Q. I do not think I got an answer to my question in miles. About how many miles do you think, with your revolutions and with your tow, your boat was making through the water prior to the time you got your stop bell? [76] A. About five miles.

Q. What did you do when you received the stop bells? A. Stopped her.

Q. Stopped her engines. A. Yes, sir.

Q. Did you receive any other signals?

A. Yes, sir. There was just a slight pause and

(Testimony of C. H. Lewis.)

then I got two more.

Q. What did that mean?

A. That means back up.

Q. It meant full speed astern?      A. Yes, sir.

Q. Did you give her engines full speed astern?

A. Yes, we always do in case of that kind.

Q. How long were you running full speed astern?

A. Well, not more than a quarter of a minute, I guess.

Q. Then what happened?

A. I got full speed ahead again.

Q. How many bells?

A. One bell and a jingle—two bells and a jingle. I was backing up; two bells and a jingle.

Q. That would mean stop the engines and then go ahead?      A. Yes, sir.

Q. What was the significance of the jingle?

A. Full speed, all I could get out of her.

Q. Did you answer that signal?      A. Yes, sir.

Q. You stopped her engines and then went full speed ahead?      A. Yes, sir.

Q. About how long had you been running before you heard the [77] impact of the collision, how long had you been running ahead?

A. Well, it was just after I got her hooked on; it was almost well, I had not let go hold of the throttle or anything of that kind, when she struck.

Q. What did you do then?

A. Well, I stood by.

Q. Did you hear any danger signal?

A. I could not tell; I heard whistles at the time I was not paying any attention to anything like that,

(Testimony of C. H. Lewis.)

I was listening to my own signals.

Q. What did you do after you heard the collision?

A. I stayed there and waited until I heard them call out on deck to leave, for everybody to leave.

Q. Then what did you do?

A. I went out on deck.

Q. Had the others left at the time you got out?

A. Yes, sir.

Q. What did you do?

A. I got aboard the schooner.

Q. Were you the last one to get aboard the schooner? A. Yes, sir.

Q. How did you get aboard?

A. Jumped aboard. They were aboard when I came out and I jumped and caught the bobstay.

Q. And climbed up? A. Yes, sir.

Q. That is they were pulling apart, but near enough so that you could jump and catch the bobstay? A. Yes, sir. [78]

Cross-examination.

Q. (Mr. TRUMBULL.) What are you doing now, Mr. Lewis?

A. Marine engineer, the same.

Q. Working for the Puget Sound Tug-boat Company? A. Yes, sir.

Q. Been working for that company ever since you got wrecked on the "Sea Lion"? A. Yes, sir.

Q. When you say that you were making about five miles an hour I suppose you mean nauticle miles?

A. I suppose so, yes, sir.

Q. When you saw the schooner the collision had

(Testimony of C. H. Lewis.)

taken place?      A. Yes, sir.

Q. You did not see the schooner before the collision?      A. No, sir. I was in the engine-room.

Q. You did not look out?      A. No.

Q. You stood by your engines?      A. Yes, sir.

Redirect Examination.

Q. (Mr. HUGHES.) There is one question I omitted to ask you, Mr. Lewis. How did the "Sea Lion" respond when you gave her full speed ahead?

A. Quite promptly, she started to pick up pretty fast.

Q. Have you been engineer or assistant engineer on different tugs of the tug-boat company?

A. Yes, sir.

Q. How did the "Sea Lion" pick up in response to the full speed ahead of the engine, as compared with other tug-boats? [79]

A. She was very sensitive, quick to back or go ahead, very quick.

Q. Did you observe the sails of the "Oceania Vance" when you got aboard?      A. Yes, sir.

Q. Were they all set?

A. All but the foretopsail.

(Testimony of witness closed.)

Hearing adjourned. [80]

Seattle, Washington, April 26, 1912.

PRESENT: Mr. HUGHES, for the Libelant.

Mr. TRUMBULL, for the Claimant.

[**Testimony of Capt. H. E. Stream, for Libelant.**]

Capt. H. E. STREAM, a witness called on behalf of the libelant, being duly sworn, testified as follows:

Q. (Mr. HUGHES.) What is your business or calling?

A. Master mariner; going to sea for a living.

Q. What ship are you master of at this time?

A. The "Aberdeen," a steam whaler; she is not in commission just yet.

Q. How long have you held a master's license?

A. Since the 1st of March, 1910, I think.

Q. Prior to that did you hold a mate's license?

A. Yes, sir.

Q. For the waters of Puget Sound and tributary waters? A. Yes, sir.

Q. How long had you held a mate's license prior to obtaining a master's license?

A. Since 1907 I think it was that I got a mate's license, a coast license; in 1905 I had a Puget Sound license.

Q. Were you first mate on the tug "Sea Lion" at the time of the collision with the "Oceania Vance"?

A. Yes, sir.

Q. Just before starting on that voyage had the "Sea Lion" been to Ladysmith and taken on a full cargo of coal for her own steam purposes?

A. I do not know the exact number of tons, but



(Testimony of Capt. H. E. Stream.)

she had her bunkers full, and we had just cleaned off the deck and stowed it below. [81]

Q. Had a full water supply also? A. Yes, sir.

Q. Her coal and water made her deep in the water?

A. Yes, sir.

Q. She started on this particular voyage from Baldwin Island? A. Yes, sir.

Q. With a barge laden with rock for Aberdeen?

A. Grey's Harbor jetty.

Q. What barge was it and how many tons of rock did she have?

A. I do not know how many tons of rock, but I think it was the barge "Charger," if I remember right.

Q. She was towing with what length of cable astern? A. About 150 fathoms.

Q. And of this how much was manila hawser?

A. 120 fathoms of manila hawser.

Q. And thirty fathoms—

A. And thirty fathoms of chain and she had about 15 fathoms of chain, something like that.

Q. Thirty fathoms of wire rope, you mean?

A. Yes, sir.

Q. And then some chain?

A. Yes, sir, some chain. I do not know how much chain was out.

Q. What time did you leave Waldron Island?

A. We left Waldron Island at midnight.

Q. Some of the other testimony shows the time as one o'clock, would that be approximately correct?

A. One o'clock when we passed Turn Point, we

(Testimony of Capt. H. E. Stream.)

were under way then.

Q. Now, how was the water when you got under way? [82]      A. High water.

Q. So you were going out with an ebb tide?

A. Yes, sir.

Q. About what time did you pass Discovery Island light?      A. About four o'clock.

Q. This was on the 9th of June, 1909?

A. In the morning. I do not remember the exact time we passed Discovery Island.

Q. You could see the light on Discovery Island?

A. Yes, sir.

Q. And took your course from there?

A. Yes, sir.

Q. About what course would you proceed from that down until you passed Race Rocks? Do you remember what course you stood?

A. I think the "Sea Lion's" course was about southwest by south quarter south, something like that.

Q. When did the fog set in that morning?

A. About the time we passed Discovery; just after we got shaped on our course by Race Rocks.

Q. After the fog came on how did it continue?

A. Thick.

Q. A thick fog until after the collision?

A. Yes, for quite a while after the collision.

Q. What signals did you give as you proceeded on your course?

A. One long and two short blasts of the whistle.

Q. What intervals?      A. About a minute or less.

(Testimony of Capt. H. E. Stream.)

Q. Do you remember what time the collision occurred?

A. It was somewhere between 6:30 and 7. [83]

Q. You were on duty, were you?     A. I was.

Q. On the bridge?     A. In the pilot-house.

Q. The pilot-house is open in front?

A. All windows in front, yes.

Q. And a quartermaster at the wheel?

A. Yes, sir.

Q. Who was he?

A. A fellow by the name of Chris. Anderson I think was his name. Chris was the only name I really knew him by, but I think his other name was Anderson. We always called him Chris.

Q. You may state what occurred just prior to the collision and the first thing to call your attention to the presence of another vessel; just in your own way, state the facts.

A. We were coming down and I was trying to pick up the Race Rocks fog-signal, and I kept my signal going all the time at regular intervals as near as I could judge, and I was talking to the captain at the same time, Captain Lovejoy.

Q. Where was he?

A. In his bunk abaft the pilot-house, just a thin partition between us. We were talking about Race Rocks and trying to pick it up, and then I blew another whistle, and we were talking, and then I got the fog-whistle from the schooner.

Q. How did you know it was the schooner's whistle?

(Testimony of Capt. H. E. Stream.)

A. Because the fog-horn sounded like an air horn.

Q. What was that?     A. Three blasts.     [84]

Q. What did that signify to you?

A. A vessel running before the wind.

Q. What was the direction of the wind?

A. About southwest I should judge, a little forward on the starboard bow.

Q. Where did it appear?

A. A little forward of the beam.

Q. Where?     A. On our starboard bow.

Q. And a little forward of the beam?

A. Yes, sir.

Q. Now, could you see at that time the vessel, when you first heard it?     A. No, sir.

Q. When you first heard this fog-horn from the schooner what did you do?

A. I stopped and blowed my whistle and told Captain Lovejoy.

Q. What did you stop?

A. I stopped the engines.

Q. How did you do that?

A. By ringing two bells.

Q. You have a signal from the pilot-house to the engine-room, have you?     A. Yes, sir.

Q. A signal to stop is given by two bells?

A. Yes, sir.

Q. You rang two bells to the engine-room?

A. Yes, sir.

Q. And at the same time what other signal did you give?     A. I blew a tow signal.     [85]

Q. Blew a tow whistle?

(Testimony of Capt. H. E. Stream.)

A. Yes, one long and two short whistles.

Q. How quickly was that done after hearing the fog-horn from the schooner?

A. Oh, just about as quick as a fellow could do it.

Q. Now, did the schooner respond?      A. He did.

Q. What response did he make?

A. He blew three blasts of the whistle.

Q. And when, with reference to that, did you see him loom out of the fog?

A. After he blowed two of his three whistles.

Q. Just as he was finishing the blasts you saw him loom out of the fog?      A. Yes, sir.

Q. Could you make out her position and course at that time?

A. No, I did not make out his course. I knew he was heading right for us, and still a little on our bow.

Q. You mean to say you could not make out the whole length of the ship?      A. No, I could not.

Q. You could make out enough to see that he was heading toward you?      A. Yes, sir.

Q. But not exactly what his course was?

A. No, I could not tell what his course was.

Q. Heading toward what part of your ship, apparently?      A. Well, just about amidships.

Q. What did you do then?

A. I backed her and put the wheel hard astarboard.

[86]

Q. After you gave your danger signal?

A. Yes, immediately.

Q. What else then did you do?

(Testimony of Capt. H. E. Stream.)

A. I went out of the pilot-house.

Q. No, but did you give the danger signal before you gave the signal to the engine-room to back?

A. No, sir, they were all done together. I had the left hand on the whistle cord and the right hand on the bell cord.

Q. And at the same time you gave your danger signal you gave the signal to go full speed astern?

A. Yes, sir.

Q. What was Captain Lovejoy doing in the meantime?

A. He was coming out of his room and took charge of the ship.

Q. Did he get out of his room before or after you gave these last signals?

A. Just as I gave them, he was coming through the door when I done so.

Q. Did you inform him what you had done?

A. I certainly did, yes, sir.

Q. Did you at any time change your helm?

A. I put my helm hard astarboard.

Q. When did you do that?

A. I blew my danger signal and I told the man at the wheel to put the wheel hard astarboard and I saw him do so.

Q. You saw him put it hard astarboard?

A. Yes, sir.

Q. As soon as you informed the captain that you had ordered to reverse full speed astern, what did you do? [87]



(Testimony of Capt. H. E. Stream.)

A. I went aft to see that the hawser was clear of the wheel.

Q. Was that your duty?

A. That was my duty to be there at the hawser.

Q. When the ship backs with a tow, after it overcomes its headway and commences to go astern, what danger is there from the tow-line?

A. Have the propeller pick up the hawser.

Q. And is that liable to break the propeller?

A. Stop the engines and make us helpless.

Q. So that it was necessary for you to be back there?     A. I had to avoid that.

Q. As soon as there was danger of fouling the line you called the captain's attention to it and went to see after it?     A. Yes, sir.

Q. Now, how did you proceed to go back?

A. Went over the top of the house and down over the bitts.

Q. I show you a photograph and ask you if that is the photograph of the "Sea Lion."     A. Yes, sir.

Q. That correctly shows the situation of the pilot-house and the other houses on the ship?

A. Yes, sir.

Q. This uppermost house, is this the pilot-house, and just behind it on the same floor is the captain's cabin?     A. Yes, sir; these are the two windows.

Q. Now, beneath that house, above the deck of the ship is what?

A. Is living-rooms and then the engine-room.

Q. The engine-room is aft?     A. Yes, sir. [88]

(Testimony of Capt. H. E. Stream.)

Q. And just in front of the engine-room is the engineer's room?

A. The engineer is on the starboard side.

Q. This picture is looking at the port side of the vessel?     A. Yes, sir.

Q. And you say you came out of your cabin door and went right back on the top?

A. The boat deck.

Q. Which is the top of the main house?

A. This is.

Q. Went back to the stern and jumped down on the bitts?     A. On the tow bitts.

Q. Did you see the line?     A. Yes, sir.

Q. In the meantime did you hear the signal given by the captain to go full speed ahead?     A. I did.

Q. Could you see the ship as you went back?

A. I did, yes, sir.

Q. Could you tell whether the collision was then inevitable, apparently?     A. Yes, sir.

Q. What did you conclude about that from the appearances?

A. I ran along on the port side and sung out to the cook and everybody that I seen, the cook was the only man that I seen, but I shouted loudly.

Q. What did you sing out?

A. Lookout, for the men to get out.

Q. You came to the front?

A. To the main house. [89]

Q. On to the starboard side?

A. Yes, on the forepart, on the starboard side.

Q. What occurred after that, go on and describe it.

(Testimony of Capt. H. E. Stream.)

A. Well, the vessel, came aboard, struck just abaft the smokestack and her bowsprit went across.

Q. The bowsprit of the schooner?

A. Yes, sir. Cut our starboard boat right in two.

Q. Struck your starboard boat just back of the smokestack? A. Yes, sir.

Q. The bowsprit extends about how far in front of the stem of the vessel?

A. On that vessel I should judge it would extend about 40 feet, I guess, from the end of the jibboom or stem, the martingales about half way between them.

Q. The first you saw the bowsprit struck the starboard boat and struck it off?

A. Cut right in two, clear to the keel, it did not cut the keel. Then it went into the port boat and shoved her off the davits, so her bow hung in the davits forward but her stern davits went out, that is broke both tackles.

Q. As the schooner kept coming closer, did the martingales come in contact with the side of the boat?

A. No, the martingale did not but the bobstays did.

Q. And did they scrape alongside?

A. They scraped alongside.

Q. About where did the stem strike your boat?

A. Well, abaft the house, between the house and the stern, about ten feet forward of the water-tank.

Q. The stem cut right into the starboard quarter of your ship twenty feet or something like that in front of the stern? [90]

A. Yes, sir, just about that.

(Testimony of Capt. H. E. Stream.)

Q. Now, about how far in front of the stem of the ship would the bobstays be, that first struck and scraped along the side of the ship?

A. That depends on the draught of the vessel.

Q. According to your best impression?

A. Well, the upper end of it was about 20 feet forward of the stem, and that went down just about three feet above the water.

Q. The bobstays go from the martingales down to the stem?

A. Right underneath the martingale, what is called the bowsprit of the vessel, and then what comes on top of that bowsprit is the jibboom, and the martingale is where the two meet on the bobstays made fast to the end of the bowsprit and goes down to the stem, and keeps the stays from lifting up, the sails from lifting up.

Q. Going back now to the time when you first saw the ship, what was your reason for ordering the helm hard astarboard?

A. To swing her head to port if I could.

Q. What was your reason for wanting to swing her bow, to port?

A. Well, I thought that the vessel would—

Q. You mean the schooner?

A. Yes, that he would swing up into the wind and I would go off before the wind as near as we could and we would strike a glancing blow if we struck.

Q. He was sailing before the wind?

A. Yes, sir.

Q. Which side were his sheets on? [91]

(Testimony of Capt. H. E. Stream.)

A. His sails were on the port side.

Q. Could he have made, in that short distance, any other maneuver than the one you figured on?

A. That is the only one I knew he could make.

Q. How would he do that?

A. Put his helm hard down.

Q. Put his helm hard down and swing into the wind? A. Yes, sir.

Q. In that way his sails would carry him around?

A. Yes, he would have to let go his head sails to do so.

Q. Did he do anything of the kind?

A. He did not, that I saw, at all.

Q. Well, you got aboard the schooner right afterwards. You could tell whether he let down any part of his sails or changed his course in any way by putting his helm hard down, if he had done so, could you not?

A. Well, after the collision, the only thing I could see the sails were all set but the fore and main topsails and the halyards were let go, they were hanging, that is the only thing; everything else was standing.

Q. About how far was the schooner away from you when she first loomed out of the fog?

A. Oh, about 200 feet, something like that. She was really close.

Q. Now, after the captain got into the pilot-house, as you went back, you were observing the ship approaching, were you? A. Yes, sir.

Q. By the time you heard the captain signal to go



(Testimony of Capt. H. E. Stream.)

full speed ahead, was the schooner's course and distance [92] such as to indicate that it would be impossible to clear the way you first figured on?

A. Yes, sir.

Q. What was the only chance then of avoiding the sinking of your vessel?

A. Get across his bows, that was the only thing.

Q. And that was the course adopted by the captain? A. Yes, sir.

Q. In view of the fact that the schooner hadn't time to come around, was that the proper course for the captain to take, would you have done the same thing if you had been in the pilot-house?

A. Certainly, that was the only thing he could have done. The tug had not lost headway at all from the backing.

Q. All the crew of your ship got aboard the schooner? A. Yes, sir.

Q. Climbed up?

A. By the bobstays on to the bow of the ship.

Q. Do you remember whether the captain or anyone on board the "Oceania Vance" called out to you or anyone aboard, to get aboard? A. Yes, sir.

Q. They could see how your boat was cut into better than you could on the boat? A. Yes, sir.

Q. And he wanted you to get aboard on account of the danger of your tug going down? A. Yes, sir.

Q. What happened after you got aboard the "Oceania Vance"?

A. Well, we went back and spoke to the barge.  
[93]



(Testimony of Capt. H. E. Stream.)

Q. First she swung around and broke loose, did she?     A. Yes, sir.

Q. Then were her sails changed any?

A. Yes, sir, as she was swinging off to come before the wind.

Q. Did all of you turn to and help to swing over her sails?

A. Yes, sir. I don't know that everybody did, but I know some of us did; we done all we could.

Q. They were swung over into the wind so as to do what?

A. So as to bring her head off, let her head fall off before the wind and get way on the vessel.

Q. You swung her clear around?     A. Yes, sir.

Q. And came back to where the tug had been?

A. Yes, sir. And spoke to the barge.

Q. At that time had the tug sunk?     A. Yes, sir.

Q. By the time you got back?     A. Oh, yes.

Q. About how long were you swinging the tug around?

A. Why, I don't know just exactly the length of time, it took some few minutes.

Q. Were you out of sight of the tug before it went down?     A. Yes, sir.

Q. You were out of sight of her but did you—

A. We saw the barge afterwards, and then we saw wreckage of the tug.

Q. You swung around and then picked up the barge?     A. Yes, sir. [94]

Q. After *haining* the barge you found then that the tug had sunk?     A. Yes, sir.

(Testimony of Capt. H. E. Stream.)

Q. And you left instructions with the barge to hang on to the hawser to the tug?     A. Yes, sir.

Q. The tug acted at the bottom of the sea as an anchor for the barge?     A. Yes, sir.

Q. And then you and the rest of the crew of the "Sea Lion" came on with the schooner to Port Townsend?     A. Yes, sir.

Q. Did you learn from the captain or officers of the "Oceania Vance," what they had done previous to the time of the collision?

A. Well, he told me coming up the straits, but I don't recollect exactly what it was, I would not swear to what he said.

Q. Do you remember his telling you how long previous to that that he had worn ship on their course to Dungeness?

A. After picking up Race Rocks, before they shaped their course for Dungeness, about 20 minutes, he said.

Q. Did he tell you about what speed they were going at the time of the collision or just immediately before it?

A. He said three and a half or four, if I remember right. I would not say as to that.

Q. Did you notice what speed they were going when you left after the collision, while the fog was still on?

A. No, I did not. I should judge they were making between four and five. [95]

Q. Afterwards?     A. Yes, sir.

Mr. HUGHES.—I offer this photograph of the

(Testimony of Capt. H. E. Stream.)

“Sea Lion,” identified by the witness, in evidence.

Photograph marked Libelant’s Exhibit “B,” filed and returned herewith.

Q. I show you Libelant’s Exhibit “A,” and the line “B”—“C” as indicated here by Captain Lovejoy, showing the course from Discovery Island to point of collision, is that about correct?

A. That is just about correct.

Q. The letter “B,” would that in your judgment be about the location or place in the water where the collision occurred?     A. Just about that.

Cross-examination.

Q. (Mr. TRUMBULL.) I understand, Captain, it was your watch at the time this collision occurred.

A. Yes, sir.

Q. Prior to the collision you heard fog-signals from the schooner?

A. Within a minute or so of the collision.

Q. Had not you heard any prior to that?

A. None at all.

Q. How many signals did you hear?     A. Two.

Q. That is two separate and distinct signals?

A. Yes, two separate and distinct signals.

Q. These signals consisted of what? [96]

A. Three blasts of the whistle with his fog-horn.

Q. These indicated to you what?

A. That the vessel was running before the wind.

Q. How far were these signals apart?

A. Well, about far enough that I could get in a blast of my whistle.

Q. For you to give your signal?     A. Yes, sir.

(Testimony of Capt. H. E. Stream.)

Q. Which consisted of what?

A. One long blast and two short.

Q. That indicated what?     A. That I had a tow.

Q. Now, when was it that you signaled to stop the engine?     A. When I first heard his.

Q. The first signal?

A. The first signal that I heard.

Q. And how long was it after that that you saw the schooner?

A. Well, I would not say the exact time, but a very short time, because I blew my tow whistle and he answered right away, and then I seen him as he was blowing his whistle.

Q. Well, that would be about a minute or a minute and a half.

A. Oh, no; it would not be a half a minute.

Q. Not a half a minute?     A. No.

Q. Well, now, did you stop the engine before or just after you saw the schooner?

A. Before I saw the schooner. [97]

Q. When you saw the schooner what did you do?

A. I blew the danger signal, put my helm hard astarboard and backed her at the same time.

Q. Gave the signal to back the engine?

A. Yes, sir.

Q. Then what did you do?

A. Well, Captain Lovejoy came into the pilot-house at that time and relieved me and I went aft to look out for the hawser.

Q. How long did it take you to go back?

A. It did not take me very long.

(Testimony of Capt. H. E. Stream.)

Q. Could you tell me about how long?

A. As to minutes or seconds I never timed myself; I went as fast as I could.

Q. You went over the top of the deck-house?

A. Yes, sir.

Q. How did you get up there?

A. I was in the pilot-house.

Q. Can you go out of the pilot-house?

A. Out of the pilot-house, there is a railing around here and I ran aft here and jumped down on the bitts here.

Q. Then what happened after you got there?

A. What do you mean?

Q. In regard to the engines?

A. They were going full speed ahead, and then just as I left, as Captain Lovejoy stuck his head out of the pilot-house window, I went out of the door, and he told me what he had done, he rang the full speed ahead.

Q. He changed it? [98] A. Yes, sir.

Q. Almost instantly?

A. Yes. The three different signals were almost together.

Q. One right after the other?

A. Yes, sir, almost as fast as a man can work his engine.

Q. Well, you had seen the schooner before you left the pilot-house? A. Yes, sir.

Q. And did you see the schooner again before the collision? A. Yes, sir.

Q. Where did you see her?

(Testimony of Capt. H. E. Stream.)

A. I saw her come aboard of us; I was standing forward looking at her, forward on the deck.

Q. After you had gone to the stern?

A. Yes, sir.

Q. And came back?

A. Yes, sir, I came forward.

Q. You came forward again and you had seen the schooner coming toward the tug?

A. Yes, sir, she was coming from the time I seen her, she was coming toward the tug. As I ran forward on the port side I could see her bowsprit over, and the reason I ran forward was to keep away of the smokestack.

Q. These changes of the engine had they made any difference in the speed of the tug?

A. Might have slowed down a little, but I do not know whether they had or not. I know the tug had slowed a little, but she had not gone very much. She was still going ahead.

Q. The tug was going ahead and the schooner was coming [99] toward the tug. A. Yes, sir.

Q. Now, when you saw the schooner first, she was about 200 feet away? A. About that, yes.

Q. And your idea was by stoppnig your engine and then reversing the engine, was to avoid her?

A. Yes, sir.

Q. If it had been continually reversed, would it have avoided her? A. No.

Q. Why not?

A. Because he did not change his course; we could not stop the way of the vessel at the time she would be reached.



(Testimony of Capt. H. E. Stream.)

Q. Were these proceedings on your part to stop the engines and reverse the engines on the assumption that the captain of the schooner would change the course of his vessel? A. Certainly.

Q. Based on that? A. At that time.

Q. If you had known that he was not going to change his course, what would you have done?

A. I certainly would have rung full speed and probably would have cut the hawser to give her a chance to get away.

Q. Now, this schooner, when you saw her first, had her sails all up except the topsails?

A. The fore and main topsails, I noticed them after the collision. I don't know what was up before, because [100] I did not take time to see, her bowsprit came out of the fog, her bow came out of the fog, and what was above I did not notice.

Q. Well, now, what would the captain of the schooner have done with a vessel that close to each other and getting closer to each other every second, to have changed the results?

A. Well, I don't know what he could have done. I know what he could have tried to have done.

Q. What in your opinion would you have tried to have done?

A. Put my helm down and let her come into the wind, put all hands on the spanker-sheet so as to haul her around.

Q. How long would it have taken to have done that?

A. That would have taken sometime, her sails are heavy sails.

(Testimony of Capt. H. E. Stream.)

Q. Is it not a fact, Captain, that assuming that you were 200 feet apart, and both of the vessels going that that distance would be covered in a very few seconds?     A. Yes, sir.

Q. So that it is not probable that anything could have been accomplished in that distance?

A. Well, I don't know whether it could or not.

Q. Well, as a sailor, what would be your opinion?

A. Well, I would have tried to clear whether she would have cleared or not I don't know. I am not a schooner man, I am not a sailor, I am a steamboat man; sailing vessels are out of my line; I am a steamboat man.

Q. I thought you were in charge of a whaler now?

A. Yes, a steam whaler. I have made a few trips to sea in sailing vessels, one was in the "Oceania Vance" after the collision. I never handled a sailing vessel to [101] know what they can do.

Q. This was quite a thick fog was it not?

A. Very foggy.

Q. And was there much of a wind?

A. Quite a breeze of wind.

Q. Which way was it blowing from?

A. About southwest.

Q. How long was it after that before the fog lifted?

A. The fog lifted along about one or two o'clock in the afternoon, something like that.

Redirect Examination.

Q. (Mr. HUGHES.) How were her sails set when you were aboard the ship?

(Testimony of Capt. H. E. Stream.)

A. You mean which side they were on?

Q. Yes.      A. They were on the port side.

Q. And if she was sailing before the wind, when she had shaped a course after passing Race Rocks for Dungeness, about what course would that be?

A. That would be about—

Q. About southeast?

A. It would be more to the eastward, about east by south.

Q. She would have to have her sails pretty well on the port side in order to get the full benefit of the wind?      A. Yes, sir.

Q. And with her sails in that position, she would put her helm hard aport and that would bring her around with the wind as it was?

A. No. He would have to get her spanker in before she [102] would have gone very far; after she got around so far she would spill on the spanker, and the weight of the sails would have kept her there, but if he could have got the spanker in and sheeted home, as they call it and let go the head sails, she would have come around herself.

Q. Putting the wheel hard down?

A. Yes, sir, she would have come to a certain distance, but beyond that she would not have come with the sheets and sails in the position that they were.

Q. And by putting your wheel hard astarboard, putting your helm to port, while making headway, how would it throw the bow?

A. Throw the bow to port.

Q. So that it would be throwing your ship away from him all the time as he was coming?

(Testimony of Capt. H. E. Stream.)

A. Yes, sir.

Q. And that was your idea in making that man-euver, from what you could see, as you first saw the bow appear out of the fog?     A. Yes, sir.

Q. You thought that the distance was sufficient so that you could keep out of his way and the most that would happen would be that the two ships would bump each other at the most?     A. Yes, sir.

Q. And where were you on the ship when you heard the captain give the signal "Full speed ahead"?

A. I was just about at the aft part of the pilot-house.

Q. Walking back?     [103]

A. Running back.

Q. Somewhere on the aft part of the deck?

A. On the aft part of the pilot-house. I had not much more than got out of the door and slammed the door and was running back.

Q. Did you notice the ship, was it fuller in sight, fuller in view at that time?     A. Yes, sir.

Q. And her position was better defined?

A. Yes, sir.

Q. So that you could tell what she was doing

A. Yes, sir.

Q. (Mr. TRUMBULL.) About what speed were you making?

A. We were making about four or four and a half, something like that.

Q. (Mr. HUGHES.) That was the speed you were making during the fog, was it?     A. Yes, sir.

(Testimony of Capt. H. E. Stream.)

Q. Now, considering the condition of the tides and currents there, could you keep your tow in position at a slower speed than that?     A. No.

Q. You were running then as slowly—

A. As slowly as we could make our course, certainly.

(Testimony of witness closed.)

Hearing adjourned. [104]

Seattle, Washington, May 6, 1912.

PRESENT: Mr. HUGHES, for the Libelant.

Mr. TRUMBULL, for the Claimant.

**[Testimony of Christian Anderson, for Libelant.]**

CHRISTIAN ANDERSON, a witness called on behalf of the libelant, being duly sworn, testified as follows:

Q. (Mr. HUGHES.) You are a seafaring man, Mr. Anderson?     A. Yes, sir.

Q. How long have you been a seafaring man?

A. Forty-one years.

Q. Were you the quartermaster on the tug "Sea Lion" on the 9th of June, 1909?     A. Yes, sir.

Q. When did you go on duty?

A. Six o'clock, sir, in the morning.

Q. What was the condition of the weather at that time?

A. Oh, kind of foggy, blowing a strong breeze.

Q. Was the fog dense?

A. Yes, it was getting thick all the time; it was very thick after while.

Q. Who was in command in the wheel-house with you?

(Testimony of Christian Anderson.)

A. The mate was in command just then, Mr. Stream, I think his name is.

Q. The captain's cabin was immediately behind the pilot-house? A. Yes, sir.

Q. Were the windows of the pilot-house open after you came on deck and up to the time of the collision?

A. When I came in I opened the windows just about 10 minutes or so afterwards. When I saw what kind of weather it was I opened the windows.

[105]

Q. They remained open all the time after that?

A. Right to the collision.

Q. For how long, for a half an hour?

A. Just about half an hour. I could not say exactly.

Q. Do you know when the collision did occur?

A. It was twenty minutes of seven when I left the pilot-house.

Q. What signals was the "Sea Lion" giving?

A. She was blowing one long and two short.

Q. How frequently?

A. It was very often. It might be a minute or two at the time, she was going continually pretty near all the time blowing a whistle, I should judge a minute or two.

Q. Blowing one long and two short whistles?

A. Yes, sir.

Q. Did you finally hear a fog-horn from some other vessel? A. Yes—not from other vessels—

Q. I mean outside of your ship, did you hear a fog-horn before the collision?



(Testimony of Christian Anderson.)

A. We heard a sailing ship on the starboard side.

Q. Forward of the beam was it, on the starboard bow? A. Yes, a little forward of the beam.

Q. At that time you could not see the ship that gave that signal? A. No, sir.

Q. Did the mate answer it?

A. He answered immediately.

Q. What else did he do?

A. Well, he blowed his horn again, the schooner did, then the jibboom was right over our engine-house.

Q. At the time he blowed the second time he was close to [106] you? A. Yes, right on to us.

Q. Going back to when you first heard his fog signal, that first signal of the "Oceania Vance," what did the mate command you to do?

A. To put the wheel over.

Q. How, starboard?

A. Starboard, I think it was, so far as I can remember I think it was starboard.

Q. Did you put it over?

A. I done all I could to get it over, but they smashed together before we were through, there was no time to spare there.

Q. Did the captain come into the pilot-house?

A. He was in the pilot-house before they went together. The door was open and he heard the trouble—

Q. He came right into the pilot-house?

A. Yes, sir.

Q. He took command, did he?

(Testimony of Christian Anderson.)

A. Well, he was, he took command, but it was just a short time.

Q. The mate went out, didn't he?

A. Well, the mate went out first and then the captain followed him, because it was no place to be there.

Q. You stayed at the wheel?

A. I stayed there until I saw the captain and the mate jump on the schooner.

Q. Did you keep the wheel hard over as long as you stayed there?

A. I kept it over, that was my order. [107]

Q. Then after they had gone, did you hear them call from the "Oceania Vance," to get over?

A. I dare say. I could not say I heard it, because I was making up my mind whether to leave the wheel; there was nobody to give me orders *to* I left it.

Q. You went out?

A. I went out and saw them climbing up the bob-stays and chain plates, and they were helping all they could to get them up aboard.

Q. Were you one of the last men to get aboard?

A. I was next to the last. When I passed the engine-house I sung out for the second engineer to come.

Q. He followed you?

A. He asked me if I was in a hurry, and I says if you want to save yourself you better come. He was just behind me.

Q. Now, when you first noticed the "Oceania Vance," was she getting pretty close to you?

A. She was too close.

(Testimony of Christian Anderson.)

Q. Was there anybody on the lookout on her?

A. Not that I could see. There might have been, but I do not think there had been any. I could not see any. They might have jumped down; it was too close then to see.

Q. You have had a good deal of experience on sailing vessels, have you?

A. Yes, sir, I should say so.

Q. You have commanded sailing vessels as master yourself?

A. I have been master of square rigged vessels for over 14 years, all around the world.

Q. What rate of speed was the "Oceania Vance" sailing when you saw her coming to you? [108]

A. Well, the weather was blowing, she had the top-sails on and no ballast, and I should think she was going about seven or eight miles an hour, I should judge so. During the day *the died* down after the collision; but at the time of the collision it was a pretty strong breeze.

Q. The wind died out afterwards?

A. Yes, gradually.

Q. Up to that time the wind was blowing quite a breeze? A. Quite a strong breeze.

Q. And what direction was it coming on, your bow? A. Coming on our starboard bow a little.

Q. What was your course?

A. I think, so far as I remember, it was southwest by south a little southerly, may be half a point; I could not say for sure, but it was a little southerly.

(Testimony of Christian Anderson.)

Cross-examination.

Q. (Mr. TRUMBULL.) How long had you been on watch that morning, Mr. Anderson?

A. From six o'clock, sir, in the morning.

Q. How long after you went on watch did this collision occur?

A. Just when I left it was 20 minutes to seven in the pilot-house.

Q. How did you come to notice that?

A. I noticed that because the clock was hanging right before me, and I knew there would be a question about it, so I looked at it.

Q. You knew there would be a question?

A. Yes, sir.

Q. Why did you think so? [109]

A. I have been to sea all my life and have been on trials like this before.

Q. You thought there would be some trial?

A. There would be.

Q. So you determined to post yourself?

A. Well, I would see the time. You see there was very little time to look after things then.

Q. Well, when you went on watch then the "Sea Lion" was blowing her fog-whistle?

A. All the time; just a little between.

Q. Could you hear the fog-signal from the "Oceania Vance"?

A. No, sir, did not hear it until just before, just a very short time before they struck, I heard one.

Q. How long before?

A. Well, it was not much, I could not say exactly,

(Testimony of Christian Anderson.)

but it could not be more than a couple of minutes.

Q. A couple of minutes?

A. It was very little. When the second one blew the jibboom was right over us.

Q. Now, you were in the pilot-house looking out of the window? A. Yes, sir.

Q. How long before the collision did you see the "Oceania Vance"?

A. Oh, there was very little; it was so thick you could not, I don't think you could see 150—well, about 40 fathoms something like that. It was very thick. You could hardly cut it with a knife, it was so thick.

Q. You think that when you saw the "Oceania Vance" she was about how far from you?

A. They were very little, a short distance, right close to [110] us.

Q. Well, was she blowing her whistle?

A. We heard one blow and the second blow was right on top of us.

Q. What did you do when you seen her?

A. Well, I took my orders from the mate.

Q. What orders did the mate give you?

A. To put the wheel over.

Q. Which way? A. I put it to starboard.

Q. Do you remember that you put it to starboard?

A. So far as I remember, I had to; I have been on this trial once before, and I am almost certain I said the very same thing there. That is three years now; it is a long time, and I forget a little about it, but I am almost sure. It was the only way we could clear it.

(Testimony of Christian Anderson.)

Q. What other orders did the mate give you?

A. Well, the mate did not give me any. The captain was there and they did not give me any other orders; they went and left me.

Q. The captain came into the pilot-house?

A. He was there when the vessel came.

Q. And was the mate in the pilot-house?

A. The mate was there before, you know.

Q. After he gave you the order to put the wheel over, what did he do then?

A. Well, I had it over as quick as I could.

Q. What did the mate do?

A. He left the pilot-house.

Q. What did the captain do? [111]

A. He went after him, because they struck together and there was no time to stop there.

Q. Went right out?

A. Yes. The mate gave a signal to the engineer, but I do not know about that; I was hauling the wheel over.

Q. You do not know what signal he gave?

A. No, but we were going with slow speed; when we were traveling before the collision we slowed down.

Q. And neither the mate nor the captain were in the pilot-house?

A. No, they were in the house and went down over the house and took hold of the chain plates on the schooner and went up, and when I saw them I made up my mind there was nothing nor nobody to give me orders, and I left.



(Testimony of Christian Anderson.)

Q. Well, Mr. Anderson, the collision then occurred almost within a few seconds after the time that you saw the schooner come up out of the fog?

A. Yes, I could almost swear it was within three or four minutes, three minutes.

Q. Do you mean minutes or seconds?

A. Minutes. It could not be three minutes. It was done in no time.

Q. Do you realize how much time three minutes is?

A. Well, in a condition like that, it was a very short time.

Q. Well, you stated that the schooner was going seven or eight miles an hour?

A. There was no ballast in that schooner and there was a strong breeze.

Q. How do you know how fast she was going?

A. Well, I cannot say for sure, but if I had seen a log I [112] could tell.

Q. Why do you think so?

A. On account of the wind, it was a strong breeze, and she had all her sails on.

Q. All of the sails? A. Yes, the topsails, too.

Q. All were up? A. Yes, sir.

Q. You are sure of that?

A. Yes. I am not sure about the foretopsail, but the mizzen and maintopsail were on.

Q. When did you notice that?

A. After I got on board.

Q. You formed your opinion then as to how fast she was going after you got on board the vessel and seen the sails she had?

(Testimony of Christian Anderson.)

A. I could form that in a minute, before I left the "Sea Lion" I called the engineer up to come, and I looked out at it then; I was by the engine-house and I sung out for the second engineer to come up if he wanted to be saved, and I was looking at the wind just then, and I told him, "If you don't come now you will be gone,"—to hurry up. He asked if I was in a hurry and I said yes. Then I hooked on the bobstays over the house and I had the engineer just behind me.

Q. And that is the only reason why you thought it was going seven or eight miles an hour?

A. I am almost certain she was going seven.

Q. What do you mean by almost certain, what do you base it on? You did not see her go? [113]

A. Well, she was coming with the wind full speed, and I have been to sea forty-one years, and I ought to be able to say just about how *much will* go. I have been to sea all my life.

Q. But she was within about 200 feet when you saw her, and she was coming through a thick fog.

A. Yes, sir.

Q. And the wind had died down.

A. No, not just then, but the wind died down, but not sudden.

Q. So you formed an opinion as to how fast she was going after you got on the schooner and she started on toward Port Townsend?

A. Well, I formed my opinion before I left the "Sea Lion"; I was looking at the "Sea Lion" to see if she was going down, and I saw she was going down

(Testimony of Christian Anderson.)

sideways, and I looked at the wind and weather, and I said that schooner was coming with good speed, a little too good speed, in my opinion, for the foggy weather.

Q. You said that to yourself, did you?

A. Yes, sir.

Q. You remember that you said that?

A. I was thinking of that. I never said the words, you know.

Q. But you remember that you were thinking of that at that time? A. Yes, I was thinking of it.

Q. And at that time you made up your mind that she was going seven or eight miles an hour.

A. Between seven and eight I should guess. I am not far out there. [114]

Redirect Examination.

Q. (Mr. HUGHES.) About how hard would you say the wind was blowing?

A. I could not say that, how hard it was blowing. I never had any experience to measure the wind that way, but I know if I had been in my boat I could not pull it up with two oars, there would have to be two men to pull against that wind, I mean in a small boat, to pull against it.

Q. Pretty strong wind?

A. Strong wind to be in there.

(Testimony of witness closed.) [115]

**[Testimony of Capt. Charles Roos, for Libelant.]**

Capt. CHARLES ROOS, a witness called on behalf of the libelant being duly sworn, testified as follows:

Q. (Mr. HUGHES.) You are a master mariner?

A. Yes, sir.

Q. How long have you been a master mariner?

A. Well, for some thirty odd years.

Q. You have retired now and live in Seattle?

A. Yes, sir.

Q. Have you commanded sailing vessels on this coast for many years?      A. Yes, sir.

Q. How long?      A. Since 1882.

Q. And did you ever command a three-masted schooner similar to the "Oceania Vance"?

A. Yes, sir, I have had three and four masted schooners.

Q. On the morning of the 9th of June, 1909, the "Oceania Vance" was sailing up the straits toward Port Townsend; the wind was about southwest, quite a strong breeze, and there was a dense fog; she had tacked across until she had gone to a point eastward or northwestward of Race Rocks, and then changed her course toward Dingeness light or Point Wilson; sailing before the wind with all sails set, except perhaps her foretopsail; the tug "Sea Lion" was proceeding down the straits past Discovery Island, on a course southwest by south a quarter south, or thereabouts, to pass Race Rocks, and was a mile or thereabouts to the east of Race Rocks; she was towing a barge laden with stone. There was a dense fog.

(Testimony of Capt. Charles Roos.)

She was giving her fog-signals one long and two short blasts, which might be heard on the [116]  
“Oceania Vance.”

A. How did they know it could be heard on the “Oceania Vance”? She was to windward, you know. Sometimes a steamer blowing a whistle to leeward you cannot very well hear the sound.

Q. That is true, but the captain of the “Oceania Vance” said he heard her for ten or fifteen minutes.

A. Oh, well, then.

Q. The “Sea Lion” continues her course, which would cross the course of the “Oceania Vance.” And the “Oceania Vance” gave a fog-signal from her fog-horn, a short time, say when she was 200 feet or more distance from the “Sea Lion.” I will ask you to state, Captain, under these circumstances what would be the duty of the master of the “Oceania Vance” when hearing the fog-signal of a tug with a tow continuing to be sounded ahead of him, in front of his course, not being able to see her.

Mr. TRUMBULL.—I object to the question—

Q. And what would be the proper seamanship for the master of the “Oceania Vance” in operating that ship?

Mr. TRUMBULL.—I object to the question for the reason, first that it assumes a state of facts which the evidence does not support. Second, that it calls for a conclusion of the witness, which virtually would involve the determination of the case, and calls for a legal conclusion.

Q. Now, you may answer what would be proper seamanship for the master of the “Oceania Vance”



(Testimony of Capt. Charles Roos.)

under the circumstances that I have stated?

A. Well, according to the rules of the road, when two vessels meet, and you cannot tell in a fog whether they are meeting [117] or whether they are crossing one another's bow, that it says that the vessels' helms should be put port to port. Of course, if the steamer being ahead and seeing the schooner, if he put the wheel to port he would have run into the schooner, and the schooner running with the wind on the quarter, he might have to put his helm down and stop his headway and fetch the two vessels alongside of one another, and the schooner on account of not being able to back, but the steamer could back or else go ahead by putting her wheel to starboard, he could go clear of the schooner, putting the helm to port, he would have stopped the headway altogether and they could come side by side.

Q. By putting the helm to port he would swing her around into the wind.

A. Come right up to the wind and stop the headway.

Q. Now, Captain, if you were sailing a vessel like the "Oceania Vance," and you heard the signals, fog-signals of a tug with a tow, and they continued to approach you or so as to appear to be right ahead of you, and crossing your course, when they got very close, but you could not see them, and you were sailing with all sails set except the foretopsail, if you found him getting close to you, what would you do?

MR. TRUMBULL.—I object on the ground that it is incompetent and immaterial; don't call for any fact



(Testimony of Capt. Charles Roos.)

and calls for the opinion of this witness as to what he would do.

Q. What would you do under these circumstances, what would be proper seamanship?

A. Proper seamanship would be to put my helm down. [118]

Q. Why?

A. Because, that would stop me headway altogether and avoid the collision as much as possible. They might have come together but they would not have come together with the force as if I had kept on my course.

Q. Is that the only way that you could have stopped the headway of your ship?

A. That is the only way I could, by luffing her up; by jibing her I would have increased the headway and it would take so much more time to jibe a vessel than to come up, because of the sails and the wind steady helps her to come to any place where you have put the helm. If you have all the sails braced it takes so much longer to jibe her than it does to have a vessel to come up.

Q. Into the wind you mean?

A. Yes, sir. And by going before the wind. The more I go before the wind the faster I go, but by putting the helm down I come up into the wind and it stops the headway.

Q. Having your sails all on the port side and the wind blowing on your starboard quarter, if you put your helm hard aport or put it down as you put it, it would bring the head of the ship around?

A. Sure, yes.

(Testimony of Capt. Charles Roos.)

Q. Into the wind?

A. And stop your headway as much as possible. It might not stop it altogether, but it would slow it down so much, it would not get ahead hardly at all except the tide would take her, that is the only thing.

Q. Now, the "Oceania Vance" is a three master schooner, [119] about 150 feet in length, in what distance, suppose she was going before the wind at a speed of say seven knots an hour, in what distance could she swing around into the wind so as to prevent a collision that would cause any injury to the tug-boat?

Mr. TRUMBULL.—I object for the reason the witness is not shown qualified to answer the question.

Q. Let me put it this way: Suppose she was running free with all sails set except the foretopsail, and the wind on her starboard quarter, in what distance could she be brought around with her bow to the wind sufficiently to strike broadside if she struck at all the vessel ahead of her?

Mr. TRUMBULL.—I object as incompetent, the witness is not shown to be qualified to answer that question.

A. I say she would not take half the length of the vessel to fetch her to pretty near a standstill, anyhow to fetch her around—say she was going east or east by north, now, I would fetch her up to southeast in half a length of her. And, of course, it would take perhaps a little longer if the course up was close to the wind and she don't come up as fast as when she comes from the east to southeast, of course, then she would lose her headway and she don't come too as fast

(Testimony of Capt. Charles Roos.)

as when she was going full speed. As soon as she gets a different speed, so that the sails don't draw, consequently she gets by the wind and the sails will shake, and that will stop the headway; after she gets up in the wind the headway is stopped altogether. [119½]

Cross-examination.

Q. (Mr. TRUMBULL.) Suppose, Captain, that you were on this "Oceania Vance," and you discovered a tug coming toward you at a distance of 150 to 200 feet in the fog, what steps would you take?

A. How do you mean what steps?

Q. What would you do?

A. Well, when I heard her whistle I cannot tell.

Q. I did not ask you that Captain, supposing you saw the tug coming toward you and you were going toward the tug and the tug lay across your course, and when you perceive the tug you were somewhere between 150 and 200 feet apart, what would you do?

A. Well, if I can see the tug, and I see I cannot clear him, the only way I can do is to keep the helm to port, that is the rules of the road.

Q. Yes.

A. Now, it says if two vessels meet head on, to avoid a collision the helm should be put to port. But here is a tug-boat going pretty near in the same direction as I am. I am coming before the wind and he is heading right up into the wind, and we are coming pretty near bow on, he is trying to cross my bow. Now, to avoid collision, he is blowing his signals that he has a tow behind. I know if I put my helm up I either run into the steamer or into the tow, and to

(Testimony of Capt. Charles Roos.)

avoid that I put my helm hard aport to get my vessel up into the wind.

Q. Now, you are testifying as to your understanding of the rules of the road? A. Yes, sir. [120]

Q. Now, I ask you what you would do as a sailor, as a seaman without regard to the rules of the road, and your understanding of the rules of the road, state what you would do.

A. That is what I would do, that is the only safe way.

Q. Well, then, you run the risk of the tug striking you amidships? A. No, sir.

Q. Why not?

A. The tug could not strike you amidships, because the further I come up to the wind the further I would get away from the tug; he could not strike me amidship. He is going this way and I am coming right off by putting my helm hard aport, I am coming up in the wind, we are both going the same way, by him putting the helm to port he would run into me, deliberately run into me.

Q. Well, now, you say then that doing that, putting your helm hard aport and bringing you up to the wind, that that could all be accomplished in going less than the length of the vessel?

A. Yes, sir, it can be with speed—I do not know what speed she was going.

Q. Mr. Hughes, when he gave you the question, assumed that she was going seven or eight miles an hour.

Q. And the tug is going four or five miles an hour?

A. Yes, sir.

(Testimony of Capt. Charles Roos.)

Q. That could be accomplished under these conditions?     A. Yes, it can.

Q. Did you ever accomplish it?

A. Well, I have had lots of narrow escapes. [121]

Q. Did you ever do that?

A. Yes, I could do it.

Q. Did you ever do it?

A. Yes, I have done it, tacking ship so many times. I know how long it takes for a schooner to come around.

Q. But have you ever done anything like what you have described, Captain, where you are in danger of colliding with a tug?

A. Why, no, I never had experience in colliding with a tug, but with other vessels. Of course, we never get in any position like that with a tug as a rule. Lots of times I have had that experience with other ships.

Q. The tug usually keeps out of the way?

A. Yes, most of the time. In San Francisco Bay in olden times, when I first commenced to sail there, we did not have any tugs, and we would have perhaps twenty or twenty-five vessels going out at one time, and you have all kinds of experience. Of course, there was a lot of rivalry and we would want to show who had the best vessel to beat out through the heads of San Francisco.

Q. These were all sailing vessels.

A. Yes. Of course, with a steamer, he is supposed to keep out of the way of sailing vessels, but circumstances alter cases.

Q. What are you doing now, Captain?



(Testimony of Capt. Charles Roos.)

A. I am not doing anything just at present.

Q. You are not working for any one?

A. No, sir.

Q. Who have you been working for?

A. Well, the last I worked for the Globe Navigation Co. [122]

Q. How long has it been since you were working?

A. About four years.

(Testimony of witness closed.) [123]

**[Testimony of James F. Primrose, for Libelant.]**

JAMES F. PRIMROSE, a witness called on behalf of the libelant being duly sworn, testified as follows:

Q. (Mr. HUGHES.) You are an engineer of tug-boats for the Puget Sound Tug-boat Company?

A. Yes, sir.

Q. Did you help in trying to raise the tug "Sea Lion"? A. Yes, sir.

Q. You were how long at work there?

A. Well, my recollection was three days, three or four days.

Q. You have been through those waters a great deal?

A. Yes, back and forth through there for several years.

Q. You have been port superintendent also?

A. Yes, I am at the present time, and was at that time.

Q. You are familiar with the tidal currents up around Race Rocks, between Discovery Island and Race Rocks?



(Testimony of James F. Primrose.)

A. Yes, sir, somewhat familiar with them towed through them for several years.

Q. Were you familiar with the "Sea Lion"?

A. I never was engineer on the "Sea Lion."

Q. But you were familiar with her?

A. Yes, I am familiar with her; she has been under my supervision. I have rode on her several times in the performance of my duty.

Q. Now, what are the currents in the straits out there around Race Rocks and between Discovery Island and Race Rocks?

Mr. TRUMBULL.—It does not seem to me that that is the best evidence, and I object to it as not the best evidence. Mr. Primrose is not shown to be competent to testify.

Mr. HUGHES.—The best evidence, of course, would be the currents themselves, but being unable to introduce them in evidence, I offer in evidence the testimony of a man [124] who has frequently observed them and is familiar with them. Will you answer my question?

Mr. TRUMBULL.—Add this to my objection that the official chart of the currents is the best evidence of what the currents are.

A. Well, the tide runs pretty strong there, out in that locality, and it is full of tide-rips all the way, you take it for a distance between Race Rocks and Discovery Island there are lots of tide-rips, and the tide runs there all the way from four to seven knots.

Q. Now, Captain, the tug "Sea Lion" was pretty heavily laden and with a hawser say at 150 fathoms,

(Testimony of James F. Primrose.)

what rate of speed would she have to make in a fog to handle her tow in these currents? What would be the rate of speed that she would have to make for her safety, to keep her course? Her own safety and the safety of her tow, I mean?

Mr. TRUMBULL.—I object as incompetent, the witness has not been shown competent to testify.

A. Well, I should say about four or five knots, that is to maintain her course through a locality that is full of tide-rips, etc.

Q. What is the effect of these tide-rips upon the tow?

A. Well, the tug, of course, will get into the rip first, and she realizes the rip is there, and the tow will come into it next, now, if you are not maintaining a speed you will not be able to pull through, you will follow along the rip that is the effect of it.

[125]

Cross-examination.

Q. (Mr. TRUMBULL.) Mr. Primrose, do you know whether there were any tide-rips where this collision occurred? A. Yes, sir.

Q. You do know? A. Yes, sir.

Q. Were there any? A. Yes, sir.

Q. When were you there?

A. The day after the "Sea Lion" sunk.

Q. Do you know in what depth of water the tug-boat was sunk? A. Yes, sir.

Q. What depth of water? A. 74 fathoms.

Q. What time of the day were you there?

A. Well, as near as I can remember, we arrived

(Testimony of James F. Primrose.)

there about seven o'clock in the morning of the next day.

Q. How long did you stay?

A. Three or four days, I have forgotten just the number, without looking it up.

Q. Did you observe the currents?

A. Well, I say it is a strong current.

Q. Well, what do you mean by that, stronger than it is in other places?

A. Not stronger than in other places, but stronger than it is in any other locality right around there. Strong currents there and up toward Discovery Island.

Q. Are these currents strong all the time or does it depend upon the condition of the tide? [126]

A. It will depend on the condition of the tide, whether a long or short run; a short run it will run from four to seven knots, and slack water not to exceed thirty minutes down to twenty minutes. I was drawing a sweep over the vessel, and if I worked on slack water and I had to work awful quick, and that is how I came to learn that.

Q. Are these rips there all the time or only at certain conditions of the tide?

A. Certain conditions of the tide.

Redirect Examination.

Q. (Mr. HUGHES.) Why did you have to work on slack water?

A. On account of the boat's position.

Q. On account of the tides and rips?

A. Yes; I had the "Tyee" fast to the "Sea Lion"

(Testimony of James F. Primrose.)

on the other end of the hawser; took the hawser off the barge she was towing and made it fast to the "Tyee," and, of course, the "Tyee" served as my buoy. Well, then, in order to sweep her I had to have my sweep with a boat on each end of it, and I would go either to the eastward or to the westward and sweep with the tide, you see, as it started to come. Otherwise I could not hold the boat in position and sweep against the tide. Of course, my sweep would never go to the bottom with two boats pulling on it, and if I tried to sweep them the other way then they would go down. That is the reason that I done my sweeping at slack water.

Q. (Mr. TRUMBULL.) That would be the case anywhere the tide ebbs and flows?

A. Yes, sir. [127]

Q. (Mr. HUGHES.) That was particularly true on account of the currents being stronger there?

A. Certainly.

(Testimony of witness closed.) [128]

**[Testimony of G. G. Plummer, for Libelant.]**

G. G. PLUMMER, a witness called on behalf of the libelant, being duly sworn, testified as follows:

Q. (Mr. HUGHES.) You are the manager of the Puget Sound Tug-boat Company?

A. Yes, sir.

Q. How long have you been manager?

A. I thing about five years.

Q. The Puget Sound Tug-boat company owned the tug "Sea Lion" at the time she was sunk in collision with the "Oceania Vance"? A. Yes, sir.

(Testimony of G. G. Plummer.)

Q. How long had they owned her?

A. They bought her, I think, on the 16th of February preceding the time she was sunk.

Q. Are you acquainted with the value of the "Sea Lion" at the time she was sunk?      A. Yes, sir.

Q. What was her value?

A. Why, with the fuel and equipments, hawsers, etc., on her I should judge from \$32,000 to \$35,000. Thirty to thirty-five thousand dollars.

Q. She had a full load of coal for her engines?

A. So I understand, she had a full cargo of fuel.

Q. She was a total loss, was she?

A. She was a total loss, yes, sir.

(Testimony of witness closed.)

Mr. HUGHES.—I think that is all of our case.

(Hearing adjourned.) [129]

*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

PUGET SOUND TUG-BOAT COMPANY,

Libellant,

vs.

The "OCEANIA VANCE," etc.,

Respondent.

To the Honorable, the Judges of the Above-entitled  
Court:

Pursuant to the order of reference herein and on this 18th day of August, 1909, the libellant appeared by Messrs. Hughes, McMicken, Dovell & Ramsey, and the claimant appeared by Mr. John Trumbull, his



proctor; thereupon the following proceedings were had and testimony offered:

**Claimant's Testimony. [130]**

**[Testimony of John G. Williams, for Claimant.]**

JOHN G. WILLIAMS, after having been duly cautioned and sworn, was examined by Mr. Trumbull, and testified as follows:

Q. What is your business?      A. Seafaring man.

Q. How long have you been a seafaring man?

A. Forty-three years.

Q. What were you engaged in on the 9th of June, 1909?      A. First mate.

Q. On what vessel?      A. The "Oceania Vance."

Q. How long had you been first mate of this vessel?

A. I think about two months.

Q. On the 9th of June of this year where was this vessel bound from and to what port?

A. From San Pedro to Port Townsend.

Q. Was she in cargo or ballast?      A. Ballast.

Q. Now, state what was the weather and the condition in regard to fog, if any, on the morning of June 9th.      A. The weather was very foggy.

Q. How long had it been foggy?

A. Since I came on deck; I came on at 4 o'clock; it was foggy then and from then until the time of the collision.

Q. At what time did you take watch?

A. At 4 o'clock.

Q. Was it foggy then?      A. Yes.

Q. Where was the captain?

A. On deck. [131]



(Testimony of John G. Williams.)

Q. At 4 o'clock?      A. Yes, when I came on.

Q. How many men were in your watch?

A. Two.

Q. What were they?

A. The man at the wheel and the man on the lookout.

Q. Who was the man on the lookout?

A. Mackenzie.

Q. What was the name of the man at the wheel?

A. I don't know what his name was, they used to call him "Shorty" and that is about all.

Q. State what course you were sailing at that time?

A. We had the winds fairly aft, pretty nearly all that time and the only sail that was drawing was the spanker, all the rest might fill occasionally, but very rarely.

Q. You were sailing before the wind?      A. Yes.

Q. And the wind was blowing in what direction?

A. From the westward.

Q. About what time did you pass Cape Flattery?

A. About 8:30 the night previous.

Q. At 6 o'clock in the morning whereabouts were you?

A. Somewhere about west of the Race Rocks; on account of the whistle.

Q. You judged that on account of the whistle?

A. Yes.

Q. That is the whistle from the Race Rocks lighthouse?      A. Yes.

Q. Do you know how far you were from land?

(Testimony of John G. Williams.)

A. From my position I would think about a couple of miles. [132]

Q. State now, Mr. Williams, what kind of wind was blowing at about 6 o'clock.

A. I think the wind was somewhere about west, southwest.

Q. In regard to velocity what kind of wind was it?

A. We would certainly be going about six or seven knots and at that time we would be making about 5 knots with one sail drawing.

Q. You had been making about six or seven?

A. No, we made about five right throughout the night.

Q. And at this time about how much were you making? A. About five.

Q. In regard to the sails set, did you have all the sails up? A. No.

Q. What sails? A. All the topsails were down.

Q. The other sails were all set? A. Yes.

Q. Now, while you were sailing before the wind what was the effect in regard to all the sails?

A. If you and that gentleman were standing together, one behind the other, you would take an amount of the wind from that gentleman. It amounts to the same thing; one sail takes wind from the others.

Q. Have you any idea how fast the wind was blowing? A. I know it was a fresh wind.

Q. Do you know what the velocity of the wind was?

A. I do not.

Q. Did you have a horn on board? A. Yes.

(Testimony of John G. Williams.)

Q. Were you doing anything with it? [133]

A. Yes, blowing three blasts on it.

Q. How often did you blow?

A. About every three minutes.

Q. What does three blasts indicate?

A. That you are running before the wind.

Q. It indicates also that you are a sailing vessel?

A. Oh, yes, decidedly.

Q. What kind of a fog-horn was that?

A. It is one of the latest patents, a Norwegian patent, I believe.

Q. It works by hand? A. Yes.

Q. Who was operating it?

A. The man on the lookout.

Q. Ordinarily how far could such a horn be heard at sea?

A. The wind was aft us, the tug-boat could hear it about three miles off.

Q. The wind was blowing towards her?

A. Towards her, yes.

Q. Did you hear any whistles behind the fog-horn of Race Rocks? A. Not at 6 o'clock.

Q. When did you hear any whistles?

A. We jibed ship about 6:20.

Q. Explain what you mean by jibing ship.

A. Schooners running before the wind, we look to square the vessel, if the wind is aft you cannot keep it aft on account of the booms driving over. You have to keep her away from the wind and you cannot very well steer clear across. You have to keep the wind on one side and [134] then get the wind on

(Testimony of John G. Williams.)

the other side again. About 6:20 or a few minutes after we jibed ship we heard the tug-boat's whistle.

Q. What kind of a whistle was it?

A. A steamboat whistle, one long and two short, indicating it was steamer with something in tow.

Q. How long before the collision did you hear this whistle first? A. About ten minutes.

Q. Did you hear it again? A. Oh, yes.

Q. How often were they blowing the whistle?

A. I could not say, I did not time it, but I heard it several times.

Q. And you were on the lookout?

A. I was on the lookout.

Q. When did you first see the tug?

A. Almost a few seconds before the collision.

Q. About how far off was she when you saw her?

A. I should not think more than 250 or 300 feet off.

Q. How far could you see in that fog?

A. Not much more than a ship's length.

Q. What do you mean by a ship's length?

A. The length of the "Oceania Vance," say 300 feet.

Q. Was the captain on deck when you saw the tug?

A. Yes.

Q. What did you do?

A. We simply could not do anything.

Q. What did you do?

A. I told the captain—he was on the other side—I told him: [135] "Here she is, right under the bows," she was then right close to us.

Q. Could you tell what the tug was doing, whether

(Testimony of John G. Williams.)

she was going ahead or astern?

A. She was going ahead.

Q. Assuming that the tug had proper lookouts, could she see you before you saw her?

A. I should imagine so, because she was a larger vessel and also our white canvas with the dark background.

Q. Did she continue to go ahead until the collision?

A. Yes.

Q. What did the captain do on board the schooner?

A. He did not do anything; he could not do anything.

Q. Why could he not do anything?

A. Because for the simple reason we could not keep her away, we could not keep the schooner away because then we would have been on top of the tug-boat.

Q. That is if you had changed the course?

A. Yes, if we had changed the course.

Q. Explain how if you had changed your course you would have got on to the tug-boat.

A. For the simple reason we were under the idea that the steamer would have been going astern or stop, being so close to us, and instead she went going ahead and consequently under our bows.

Q. Did the tug-boat give any signal as to whether she was going ahead or going astern?

A. None whatever.

Q. Did she give any signal of any kind?

A. Only four short blasts. [136]

Q. What did that indicate?

(Testimony of John G. Williams.)

A. A danger signal.

Q. When did she give this signal?

A. Just a few seconds before the collision.

Q. When in regard to the time that you first saw the tug?     A. I should think about a minute.

Q. Before?

A. It was after we seen the tug-boat the signal was given.

Q. Was the signal given about the same time?

A. After we saw each other.

Q. Did the tug-boat give any signal that would indicate to those on the schooner as to whether she was going ahead or backing up?     A. None whatsoever.

Q. What are the signals for backing up or going ahead; do you know?

A. I am not a steamboat man; three whistles is going astern; if they had blown three whistles we would have known she was going astern.

Q. Now, assuming that she had reversed her engines and gone astern, would the collision have occurred?     A. No.

Q. Why?

A. For the simple reason we would have cleared her.

Q. What part of the tug did the schooner come into collision with?

A. Just abaft the engine-room, as far as I can remember, about two-thirds aft.

Q. That is not a head-on collision?

A. No. [137]

Q. The tug continued to move on forward until



(Testimony of John G. Williams.)

the collision took place?

A. Yes, kept going on I suppose until she went down, the engines must have been racing full speed ahead.

Q. How do you know that?

A. By her water aft, seeing the water coming away from the propeller.

Q. Did you see water coming away from the bow?

A. No, I see her stern race with the motion of the propeller under the water.

Q. That might be caused by backing up?

A. No, because if she was backing up the water would be going away forward, her race was going aft and not forward.

Q. Can you state in a general way the direction that the tug was going?

A. Before we saw her or after?

Q. After you saw her and the direction that the schooner was going that brought them in contact?

A. She was almost at right angles.

Q. The tug was to the schooner?      A. Yes.

Q. And you say that if she had backed her engines and backed off you would have passed right by?

A. Would have gone across her head, across her bow.

Q. Was there anything that those in charge of the schooner could have done after you sighted the tug to avert the disaster?

A. Nothing whatever, we were too close to each other, even if we had put the wheel the other way she could not have answered in time. [138]

Q. You were bound to come in contact?

(Testimony of John G. Williams.)

A. We were bound to come in contact.

Cross-examination.

Q. (Mr. RUPP.) You went on deck at 4 o'clock

A. M.? A. Yes.

Q. The captain was on deck? A. Yes.

Q. Was he on deck at the time of the collision?

A. Yes.

Q. What time did the collision occur?

A. As near as I recollect, 6:20, something like that.

Q. How many knots an hour do you think the wind was blowing at that time?

A. I don't know what the breeze was making, we were making about five knots.

Q. You jibed ship about 6:10?

A. I think it was 6:20 when the collision occurred.

Q. About ten minutes before the collision?

A. Yes.

Q. At the time you jibed ship all the sails on the vessel would fill? A. No.

Q. Why not?

A. Because then you fetch the ship right before the wind.

Q. You were proceeding from San Pedro to Port Townsend. When did you leave San Pedro?

A. I could not tell the dates.

Q. When did you arrive at Port Townsend?

[139] A. The same day.

Q. At what time?

A. In the afternoon about 3 o'clock.

Q. How long did this collision detain you; how long did you stop at the time of the collision?

A. I think we lost about 45 minutes.

(Testimony of John G. Williams.)

Q. The seamen on board the tug were taken on your boat?     A. Yes.

Q. Do you know what amount of speed you made after the collision?

A. I think we made six, it partly cleared up and the wind freshened.

Q. Had you been making any greater speed than five knots an hour before the collision?     A. No.

Q. At no time?     A. No.

Q. Since 1 o'clock in the morning we will say?

A. From the time we passed Cape Flattery at 8 or 9 the night previous.

Q. How many sails did you have set on this ship?

A. Seven.

Q. You have been mate on the boat two months?

A. Yes.

Q. And what were you doing previous to that, before you were mate on this boat?

A. I was mate on the "Phillipine."

Q. Are you mate on this boat now?     A. Yes.

Q. You think you were about two miles from land at the time [140] this collision occurred?

A. Yes, as near as I could make it.

Q. Somewhere near the Race Rocks at Victoria?

A. Yes.

Q. You say all the topsails were down?

A. Yes.

Q. All of them?     A. Yes.

Q. How far do you think you could see through the fog?

A. Not much more than a ship's length, about 300 feet.

(Testimony of John G. Williams.)

Q. How long was this "Oceania Vance"?

A. 250 feet, something like that.

Q. Do you know what its tonnage is?

A. I cannot say I do, the captain could answer.

Q. You keep a log on board the boat? A. Yes.

Q. Who keeps the log? A. I do.

Q. Is the log still on board this boat?

A. It is in the office.

Q. You say that immediately after the collision you made about six knots an hour?

A. We hove to and started to find what had come of the towboat and her tow, the barge.

Q. And stayed there about 45 minutes?

A. I think we lost that altogether.

Q. And after that you made?

A. About 5 or 6 knots after that.

Q. The breeze freshened during that time?

A. Just about the same. [141]

Q. And before the collision you were only making about five?

A. Yes, it cleared up a little and we could see further ahead.

Q. You think the boat was 300 feet away when you first saw her?

A. I don't think she was; 250 feet or something like that.

Q. You heard the signal from the boat before you saw it? A. Yes.

Q. How long before?

A. About seven or eight minutes.

Q. About how many times did you hear it?

A. About four times, I guess.

(Testimony of John G. Williams.)

Q. It was giving the customary signals for tugs in charge of tow?     A. Yes.

Q. One long and two short blasts?     A. Yes.

Q. This was a pretty foggy morning?

A. Yes, very.

Q. What signals were you giving?

A. Three blasts of fog-horn.

Q. About how often?

A. Every two or three minutes.

Q. How long were you keeping the signals up?

A. More or less throughout the night.

Q. How long before the collision did you give one?

A. We gave them a little oftener when we heard the other signal, we kept them going almost continuously.

Q. About the time you heard the other signal you jibed ship?     A. No, before. [142]

Q. How far do you think you could hear the signals the way the weather was that morning?

A. The wind was against us, blowing away from us; I should think we ought to hear about a mile and a half.

Q. You think you ought to have heard her about a mile and a half?     A. Yes.

Q. And how far ought the tug to have heard yours?

A. A little further, a couple of miles fully but her whistle would certainly sound louder than our horn would.

Q. You think she could have heard your signal before you jibed ship?

A. I think she should have, certainly.

Q. This place where the collision occurred is in a

(Testimony of John G. Williams.)

place where vessels frequently pass back and forth?

A. Yes, they all do, right throughout the straits.

Q. Is it not a fact that for some time previous to the collision you were tacking back and forth to make increased speed?

A. We were taking several hours to make one of those stretches coming on from before midnight up to that one stretch up to 6:10 in the morning.

Q. Until the time you changed? A. Yes.

Q. If you had been tacking back and forward what amount of speed could you have made?

A. In regard to what?

Q. If you had been going straight ahead you would have made very little speed?

A. We could not have made so much. [143]

Q. But if you changed your course from time to time you could increase your speed?

A. Yes, by trying to keep the wind sail full.

Q. The spanker was full? A. Yes.

Q. The others were not? A. No.

Q. What I want to get at is this: After the collision you were able to make a better speed than before?

A. No, just the same speed except it cleared up a little, consequently would fill the other sails.

Q. And six knots an hour is about the speed you made?

A. About what we were doing at that time.

Q. Did you maintain that until you got into Port Townsend?

A. No, the wind lightened up and sometimes we were not making one mile.



(Testimony of John G. Williams.)

Q. What was this, a mechanical fog-horn?

A. Yes.

Q. You say that at the time of the collision the tug was proceeding straight ahead? A. Yes.

Q. You are sure of that? A. Yes.

Q. The engine had not been reversed?

A. That I cannot say but when I saw her she was going ahead, I could tell that by the water aft.

Q. You think then she was about 250 feet away?

A. About that, yes.

Q. You do not know whether or not her engines were reversed afterwards? [144]

A. I do not think so because they were still going ahead when she went down.

Q. You think they were still going ahead when she went down? A. Certainly.

Q. The danger signal was given on board the tug?

A. Yes, a few seconds before the collision.

Q. From the time you saw her until the collision what time elapsed? A. About two minutes.

Q. Then a few seconds before the collision the danger signal was given? A. Yes.

Q. The signal on board the ship was being given right along? A. Certainly.

Q. You would have been able to run up the Sound without jibing ship, would you not?

A. Not very well.

Q. You don't think so?

A. I don't think so, it is impossible, a schooner really cannot do it.

Q. Why not?

(Testimony of John G. Williams.)

A. Because you run the risk of damage by booms driving over.

Q. You hit the tug-boat where?

A. Just abaft the engine-room as near as I can remember.

Q. You were on deck all the time?

A. Yes, I was aft.

Q. And where was the captain?

A. Yes, on the weather side and walking to and fro from one side to the other.

Q. Was anyone else on deck? [145]

A. Yes, the man on the lookout.

Q. Who else? A. The man at the wheel.

Q. Just four of you? A. Yes.

Q. How many seamen were there on the ship at the time? A. Four.

Q. The whole four on deck? A. No, two below.

Q. You had no cargo at that time? A. No.

Q. Proceeding in ballast? A. Light, yes.

Q. Did you see anybody on the lookout on board the tug-boat?

A. That I could not say, I did not notice anyone.

Q. Until after the collision?

A. Of course, I was aft all the time; the captain went forward and got the people aboard over the head-gear.

Q. They got in the rigging?

A. They got up over our head, got on to our jib-boom.

Q. When after the collision did you next jibe ship; how long after?

(Testimony of John G. Williams.)

A. I don't think we jibed at all after that; I don't think so.

Redirect Examination.

Q. (Mr. TRUMBULL.) In what condition was the captain and the crew of the tug when they came on board?

Objected to on the ground that the question was incompetent, irrelevant and immaterial. [146]

A. The captain just put me in mind of a man just got out of bed.

Q. Had he got clothes on? A. Yes.

Q. What had he on?

A. Pajamas and slippers, one or two of the other crew their clothes were pretty vacant also.

Mr. RUPP.—The same objection.

Witness excused. [147]

Seattle, Washington, June 24, 1912.

PRESENT: Mr. HUGHES and Mr. RUPP, for the Libelant.

Mr. TRUMBULL, for the Claimant.

[Testimony of F. C. Scott, for Claimant.]

F. C. SCOTT, a witness called on behalf of the claimant, being duly sworn, testified as follows:

Q. (Mr. TRUMBULL.) Where do you live?

A. At West Port.

Q. In this state?

A. That is my home at present.

Q. You were captain of the "Oceania Vance" when—in June, 1909? A. Yes, I was at that time.

Q. You were captain of her at the time of the collision with the tug "Sea Lion"? A. I was.

(Testimony of F. C. Scott.)

Q. How long had you been captain of her?

A. At that time about 15 months.

Q. Had you been captain of her prior to that time?

A. Well, about 15 months before the collision I first took charge of the vessel.

Q. How long had you been a seafaring man?

A. Sixteen years.

Q. Sailing vessels all the time?

A. Sailing vessels and steam; mostly sailing.

Q. Since that time what have you been doing?

A. Following the sea.

Q. Here?      A. On the Pacific Coast.

Q. How much of a crew did you have on the "Oceania Vance" at that time? [148]

A. There was ten men, ten men besides myself; 11 all told.

Q. Who was at the wheel the morning of the collision?      A. I do not remember the man's name.

Q. Was it McKenzie?

A. No, McKenzie was on the lookout.

Q. Was it a fellow called Shorty?

A. They used to call him Shorty; I do not remember his name.

Q. Where were you at the time of the collision?

A. I was on deck, on the upper deck.

Q. How long had you been there?

A. Something over three hours.

Q. Where was the vessel coming from and where was she going to?

A. Bound from San Pedro to Port Townsend.

Q. Where did the collision take place?

(Testimony of F. C. Scott.)

A. Approximately three and a half miles east, magnetic, from Race Rocks.

Q. Do you recollect what direction the wind was blowing?

A. The wind was blowing about west southwest, or west by south.

Q. That is almost straight west?

A. Just about straight west, true.

Q. Making allowance for the variation of the compass?

A. Making allowance for the variation of the compass, which is  $22^{\circ}$  variation at that point.

Q. And so you mean that the wind was blowing about due west? A. Due west, true.

Q. About what speed was the "Oceania Vance" making?

A. She was making approximately five knots an hour. [149]

Q. How do you arrive at that?

A. By the time it took her to run from Cape Flattery to Race Rocks; also from the time it took her to run from Race Rocks to Port Townsend.

Q. That was after the collision?

A. After the collision.

Q. How long did it take you, how many hours did it take you to run from Flattery to Race Rocks?

A. Flattery to Race Rocks? We passed Flattery, as near as I can remember about eight o'clock in the evening, and we passed the sound of Race Rocks whistle shortly before six in the morning. That gave us ten hours for something less than fifty miles.

(Testimony of F. C. Scott.)

Q. And how long did it take you to go from the point of collision to Port Townsend?

A. I do not remember the exact time we arrived at Port Townsend, but it was in the vicinity of four o'clock in the afternoon. Our collision was about 6:30 in the morning and the distance was something less than forty miles.

Q. At the time of the collision what direction were you sailing?

A. I do not remember exactly, but if I can look at this chart (Libellant's Exhibit "A") I can tell you. At the time of the collision?

Q. Yes, and just immediately prior.

A. If I remember right, I think the course was east by north, magnetic.

Q. What does east by north, magnetic, mean Captain?

A. It means one point to the northward of east on a [150] magnetic compass, allowing the variation at that particular point.

Q. East by north. Well, would that in common parlance be about due east?

A. No, that would be east by south on a true compass.

Q. East by south.

A. Yes, and east by north on a common magnetic compass.

Q. What direction, as far as you could tell, was the "Sea Lion" going?

A. She was coming approximately at right angles with me, bound to the southwest; I don't know what



(Testimony of F. C. Scott.)

direction exactly she was steering, but it would be across my bows.

Q. Now, did you hear the fog-horn or the whistle of the "Sea Lion"?

A. Yes, shortly after six o'clock. About 10 or 15 minutes before I struck him.

Q. About what direction did you hear him?

A. I would judge that he was about three points on the port bow when I first heard him.

Q. How many times did you hear him before the collision? A. Oh, about a dozen times.

Q. And what were you doing in regard to making signals? A. What was I doing?

Q. Yes.

A. I was blowing my fog-signals at regular intervals of about one a minute.

Q. What was the signal that you were blowing?

A. Three blasts of the fog-horn.

Q. What did that indicate?

A. That indicated that I was running with the wind free, [151] running with a fair wind.

Q. Did it indicate what kind of a vessel it was?

A. It indicated it was a sailing vessel.

Q. When did you see the "Sea Lion"?

A. I saw him about a minute before the collision.

Q. About what distance was he from you?

A. A couple of ship lengths he was, at least I say he was possibly two ship lengths from us. I was standing on the aft part of my vessel and I could see him probably a minute before I struck him, and he may have been one ship length away from the bow.

Q. From the bow of the vessel?

(Testimony of F. C. Scott.)

A. Oh, he may have been two; it is hard to judge distance in the fog when we were close.

Q. You were on the aft part of the vessel?

A. I was on the aft part of the vessel.

Q. From where you saw him could you tell which way he was heading?

A. I could tell which way he was heading.

Q. Then he was keeping up this signal all the time, was he?      A. Oh, yes, he was sounding signals.

Q. What was his signal?

A. His signal was one long and two short blasts of the whistle.

Q. What did that indicate?

A. That indicated he was a towboat, he was a steamer with something in tow.

Q. Well, when you saw this towboat, what did you do then?

A. I did nothing but keep on as I was going.

Q. Why? [152]

A. Because there was nothing to do. I did not know what he was doing. According to the rules of the road I had to keep on.

Q. Do you know whether or not he reversed his engine?      A. I do not.

Q. You do not know that of your own knowledge?

A. That I only know by hearsay.

Q. Did the captain tell you he had reversed his engines?      A. Yes, he told me he had.

Q. Did he give any signals indicating that he had reversed his engines?      A. No.

Q. What would be the signal if he had reversed his

(Testimony of F. C. Scott.)

engines?     A. Three short blasts of the whistle.

Q. If they had given any such signal what would you have done.

A. I would have endeavored to keep ahead of the towboat, and I would have endeavored to put my helm hard aport and tried to come around this way and get ahead of her; I would have known then that she was going astern.

Q. As far as you could judge, as far as you knew, she was coming on ahead?

A. I did not know what he was doing.

Q. As far as you knew she was coming?

A. She was pointed that way.

Q. What portion of the steamer did you come in contact with?

A. A little abaft amidships, that is to say a little bit further than half way aft.

Q. Assuming that she had reversed her engines and then after coming almost to a stop, had signaled full speed ahead, would that action on the part of the steamer have anything to do with causing the collision?

A. Well, evidently it had something to do without his keeping [153] a straight course and according to their testimony that is exactly what they did. Now, had they kept on and not reversed their engines, there would have been no collision.

Q. State why?

A. Because this reversing their engines for a certain length of time, we don't know how long, but it tended to stop the vessel, possibly she was going

(Testimony of F. C. Scott.)

astern, I don't know but had they kept on at full speed ahead, they would have covered two or three or four ship lengths, and she would have cleared us nicely. Suppose they had been stopped, the way through the water had been stopped at the time they saw me, and with the engines going full speed astern, I was clearing them by at least a half a ship length. Say this was their vessel and this was me here (showing) I was clearing them by a half a ship length had they kept their vessel going full speed astern, I ought to have cleared them that way.

Q. You would have cleared them if they had kept their vessel going full speed astern?

A. I would have gone ahead.

Q. If they kept their vessel going full speed ahead how would you have cleared them?

A. I would have gone astern.

Q. Across their tow-line?

A. Across their tow-line.

Q. In any event, if you had come in contact with them, what was the chance of your coming in contact with some other portion of the vessel which would not have been a vital point?

A. Well, that I don't know. Every vessel has a vital spot. [154] Some have that vital spot more vital than others. We might have struck some part of the vessel that would not have been so much at the time, we might have struck their water-tanks, which would not have made any difference if they did fill, they were full of water any way.

Q. As it was you struck them in a portion where the machinery was located?

(Testimony of F. C. Scott.)

A. I do not know exactly; I do not know what part of that vessel it was, but it was far the most flimsy part of the steamer, most easily broken into.

Q. With fatal results to the vessel?

A. Yes, sir.

Q. If I remember right, Captain Lovejoy testified that where you were, where your vessel was, was an unusual place for sailing vessels to be bound for Port Townsend. How about that, Captain?

A. Well, I have been trading to Port Townsend a good many years, and I have been over pretty near every foot of ground or water, as the case might be, on Puget Sound. Sailing vessels you cannot put on a straight course like a steamer. You have to go where you can do the best, where you can navigate your vessel, and there is no regular track for sailing vessels.

Q. There is no regular track like there is for steamers? A. No, sir.

Q. Now, Captain Lovejoy also stated that by reason of that fact, that it was an unusual place for sailing vessels going to Port Townsend, he assumed that this vessel whose fog-horn of yours, which was the "Oceania Vance's," that [155] you were bound for Royal Roads? Was there any basis for any such assumption as that?

A. Well, from his position I could have on a scratch been bound for Royal Roads. My wind would have been abeam. Had it been to the forepart of the beam I could not have been blowing three whistles. I could have on a scratch been bound for Royal Roads. He might mistake that. But from



(Testimony of F. C. Scott.)

this position I could have been bound for any place in the Straits of Georgia or Puget Sound or the Straits of Juan de Fuca.

Q. Well, Captain, assuming that you were bound for Royal Roads what would have been the signals that you would have been giving?

A. Fog-signals?

Q. Yes, sir.

A. Well, the wind you will notice here from his position—now, my position is a little different from his position, but from his position up to Royal Roads, it lies in here.

Q. What direction from his position?

A. Northwest magnetic. My wind was west southwest. It would have been a matter of my own judgment had I hauled on that course whether to give two blasts of the fog-horn or three; had the wind been abaft the beam I would have given three blasts, but in going in that direction I would have been hauling my wind a little bit forward, and I would have been giving two blasts if the wind had been directly abeam, the speed I was going and I would naturally haul the wind a little forward on the beam and I would have given two blasts of the fog-horn according to his position. [156]

Q. Now, why?

A. Because I would be on the port tack.

Q. And according to the rules of the road that would be the signal?

A. That would be the signal to give on the port tack.



(Testimony of F. C. Scott.)

Q. Now the signals that you were giving implied what?

A. That I was running with the wind abaft the beam.

Cross-examination.

Q. (Mr. HUGHES.) Captain, what is the size of the "Oceania Vance"?

A. If I remember right she is 384 net tons.

Q. What rig is she? A. Schooner.

Q. How many masts? A. Three.

Q. And how long is she?

A. I don't know exactly, something like 140 feet over all.

Q. How far was it from the poop-deck where you stood to the bow? A. Approximately 120 feet.

Q. What time did you get past Cape Flattery?

A. Eight o'clock or shortly after.

Q. You passed the cape and were bound eastward up the straits at that hour. A. Yes, sir.

Q. Where is your log, Captain?

A. The log-book must be aboard the "Oceania Vance."

Q. How long has it been since you were connected with the [157] "Oceania Vance"?

A. About two years last January.

Q. Have you seen the log since? A. No.

Q. Have you had any memorandum-books or dates or anything of that kind by you?

A. Not with me, that is all in the log-book, though.

Q. You are testifying from your recollection then? A. I am testifying from my recollection.

Q. You said the distance from Cape Flattery to

(Testimony of F. C. Scott.)

Race Rocks was fifty miles?

A. Approximately, more or less.

Q. Well, did you have out any log for the purpose of determining the distance your vessel traveled that night?

A. I had out a check log to give me an approximate idea of what she was doing.

Q. Do you know what distance was traveled that night up to the time of the collision?

A. I don't know what she logged because the log was unreliable and I would only use it in case I wanted to in short tacks.

Q. How many tacks did you make coming up that night? A. Made no tacks whatever.

Q. Had you made none at all prior to the time you changed your course for Port Townsend? You changed your regular course after passing Race Rocks?

A. Yes, I changed my course after passing Race Rocks.

Q. Did you change your course at all prior to that?

A. Yes, I changed my course before that.

Q. How many times? [158]

A. I do not remember.

Q. Did you all the time run before the wind?

A. I always ran before the wind.

Q. The speed you would make would depend on where you had the wind, of course?

A. To a certain extent it would.

Q. You cannot tell how much distance you covered, estimating the distance in a straight line at

(Testimony of F. C. Scott.)

fifty miles, you cannot tell how much more you traveled than fifty miles?     A. Very little more.

Q. It would be some more if you changed your course a number of times?

A. It might be a fourth of a mile more on a mile run; something like that.

Q. But if fifty miles travel, and to make that distance you travel more than fifty miles?

A. Very little.

Q. How do you conclude that you were only running five miles an hour?

A. By the distance between Cape Flattery and Race Rocks and the number of hours it took to run it.

Q. You were a witness before the inspectors were you not, after this collision?     A. I was.

Q. On or about June 14th, 1909. At that time you gave this testimony:

“Q. About what speed were you going?”

“A. I should judge by figuring from my log, the vessel was going between six and a half and seven knots.” [159] Was that correct?

A. At that time I had not figured up my distance.

Q. You say here, “By figuring from my log the vessel was going between six and a half and seven knots.” You had the log at the time and evidently figured from it?

A. As I say, at that time I had not figured my distance. I did not have the time to figure the distance. I was too busy. I jumped up to the inspectors and took the examination, or was there for the examination.

(Testimony of F. C. Scott.)

Q. The collision occurred on the 9th and your examination did not take place until the 14th, after the 14th day of June, five days elapsed; do you mean to say that you did not have access to your log during the five days, to consider any of these matters?

A. I had access to my log at all times.

Q. Did you bring your log with you to the Inspector's office.

A. The log was with me at the Inspector's office.

Q. Right there with you in the Inspector's office?

A. Yes, sir.

Q. And when you answered this question, you figured from your log, didn't you?

A. I did not figure from anything. That was my own opinion at the time.

Q. You gave this answer to the question propounded:

"Q. About what speed were you making?" and you answered:

"A. I should judge by figuring from my log, the vessel was going between six and a half and seven knots."

Q. You gave that answer to that question? [160]

A. I did, I gave that answer to the question.

Q. You were also asked this question, "When did you pass the Cape?" and you answered, "Nine o'clock Wednesday night." Is that correct?

A. I do not remember what I answered.

Q. Well, I ask you to look at this transcript of your testimony, and tell me whether or not that question was propounded to you and you gave that an-

(Testimony of F. C. Scott.)

swer. A. Which part of it?

Q. I just read you that question there, and then this question here, "What time did you pass the Cape?" and your answer, "Nine o'clock." You gave that testimony, did you not?

A. I was always of the impression that it was eight o'clock.

Q. You gave that testimony?

A. I do not remember whether I did. I do not remember whether I gave it.

Q. I show you a copy of the testimony taken at that time and ask you if you are now disposed to dispute its correctness?

A. No, I am not disposed to dispute it, if that is a straight copy of what I said up there, it must be.

Mr. TRUMBULL.—Is it certified?

Mr. HUGHES.—It is not certified.

Q. You had your log at the time?

A. I had my log, but it was not brought in as evidence.

Q. You had it and referred to it?

A. I did not refer to it, not there. I did not refer to my log whatever, because I had my log books there and they never asked me to refer to my log books, never wanted to [161] see them. If I could volunteer a little information on that.

Mr. HUGHES.—I am questioning you now.

Q. Was the fog thick just prior to the collision?

A. It was.

Q. When you saw the tug first you thought it was about 300 feet away from where you were standing?



(Testimony of F. C. Scott.)

A. It was more than that; it was more than three hundred feet from where I was standing.

Q. Which way was she?

A. About three points on the port bow.

Q. You have testified that when you heard her fifteen minutes before, the fog signals were three points on your port bow? A. Exactly.

Q. Now, I ask you where she was when you saw her loom out of the fog?

A. Three points on the port bow.

Q. Still three points on the port bow.

A. Yes, sir.

Q. So she had not traveled any in that fifteen minutes?

A. Oh, yes, I guess she must have been traveling.

Q. Captain, in this same hearing before the Inspectors, you gave this testimony: "Q. At the time of the breaking through the fog up to the time of the collision, did you think there was time enough for either vessel to have been maneuvered so as to clear?" and you answered, "I do not think anything in the world would have averted the collision." Didn't you give that testimony?

A. I gave that testimony, but I meant it on my own part; I did not mean it for the other people. [162]

Q. The question was, "Did you think there was time enough for either vessel to have been maneuvered so as to clear?" and your answer was, "I do not think anything in the world would have averted the collision." Did you give that answer?

A. If I did I misunderstood the question.



(Testimony of F. C. Scott.)

Q. The question was perfectly clear, was it not?

A. As I hear it now it is. If I gave that answer I must have misunderstood the question. I meant that for my own vessel only.

Q. Now, how long was it before the collision that you had changed your course, wore your ship?

A. About twenty minutes.

Q. How much did you change your course at that time. A. About three points.

Q. In other words, prior to that time your course was what? A. Approximately northeast by north.

Q. Why were you keeping so far to the north?

A. So that I could get that position or get a departure in other words from the sound of Race Rocks whistle to enable me to make Point Wilson.

Q. Well, as soon as you were abeam of Race Rocks whistle did you change your course?

A. Not when I was abeam.

Q. How soon after.

A. I ran past until the Race Rocks bearing on a point—on a line with Point Wilson. You understand me, I get between Race Rocks and Point Wilson so that I could keep directly on that line and make port.

Q. Well, you were in a position where you could hear the [163] whistle behind you and then govern your direction by your chart? A. Exactly.

Q. What sails did you have on?

A. I had the—at what time, at the time of the collision?

Q. Yes.

A. I had the courses, foresails, jib and spanker topsail.

(Testimony of F. C. Scott.)

Q. Had you taken in any sails before the collision?

A. Prior to that, yes.

Q. When?

A. Sometime during the time, I don't know just when, I do not think I was on deck at the time the sails were taken in.

Q. Was the mizzen topsail set at the time of the collision?      A. The mizzen topsail was set.

Q. What course did you say you were steering at the time of the collision?

A. I think it was east by north magnetic.

Q. Did you see the tug before the lookout called out?      A. No, sir.

Q. Were you laden at this time?

A. I was light.

Q. Was the tug going ahead when you collided?

A. I could not say, I think she was.

Q. Why do you think she was?

A. Because she changed her position from three points on my port bow to right under my bow.

Q. Did she change your position any when the collision occurred?

A. The force of the collision changed my position, that is [164] it would not change my position much, but it would change the ship as I struck the tug, her going full speed ahead would bring my bow around.

Q. Brought your bow into the wind?

A. Up into the wind.

Redirect Examination.

Q. (Mr. TRUMBULL.) What statement was

(Testimony of F. C. Scott.)

that you wanted to make about the log?

A. About the log?

Q. Yes, you wanted to make some statement.

A. Oh, in regard to my patent log.

Q. Yes.

A. I do not know, unless it was that the log is not reliable and it was overrunning and I just used it only as a check; I was not using it to run distances with whatever.

Q. You testified before the Inspectors?

A. Yes, sir.

Q. When there was an inquiry in regard to this collision? A. Yes, sir.

(Testimony of witness closed.)

Hearing adjourned. [165]

### **Commissioner's Taxable Costs.**

#### **LIBELANT:**

Hearings Apr. 10, 1911; Apr. 22, 1912; Apr.

26, 1912; May 6, 1912.....\$12.00

Administering oaths to 8 witnesses..... .80

Marking and filing 2 exhibits..... .20

Transcript above hearings, 250 folios at 10c... 25.00

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\$38.00

#### **CLAIMANT:**

Hearings August 18, 1909, June 24, 1912..... 6.00

Administering oaths to 2 witnesses..... .20

Transcript above hearings, 80 folios at 10c.... 8.00

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\$14.20

**[Certificate of Commissioner to Transcript of  
Testimony, etc.]**

United States of America,  
Western District of Washington,  
Seattle, Washington,—ss.

I, A. C. Bowman, a Commissioner of the United States District Court for the Western District of Washington, do hereby certify that the foregoing transcript, from page 1 to page 135, both inclusive, contains all of the testimony offered by the parties before me. Said testimony was taken by myself, or under my direction, on the dates mentioned in the transcript. The several witnesses, before examination, were duly sworn to testify the truth, the whole truth and nothing but the truth. Proctors for the parties stipulated waiving the reading and signing of the testimony by the witnesses, agreeing that it should have, when returned into court by me, the same force and effect as if so read and signed by them. The exhibits offered during the taking of the testimony, to wit, Libelant's Exhibits "A" and "B," are marked and returned by me herewith. I further certify that I make the return of the testimony on this day, and not earlier, for the reason that I have just been advised by proctors that the testimony was closed. I further certify that I am not of counsel nor in any way interested in the result of this suit.

Witness my hand and official seal this 21st day of January, A. D. 1914.

[Seal]

A. C. BOWMAN,  
U. S. Commissioner.

[Indorsed]: Testimony: Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Jan. 28, 1914. Frank L. Crosby, Clerk. By E. M. L., Deputy. [167]

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[Opinion.]

*United States District Court, Western District of  
Washington, Northern Division.*

No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,

Libelant,

vs.

The Schooner "OCEANIA VANCE," Her Tackle,  
Apparel and Furniture,

Respondent,

COAST SHIPPING COMPANY,

Claimant.

Filed August 31, 1914.

ON LIBEL FOR COLLISION.

DECREE FOR LIBELANT AS PRAYED FOR.  
HUGHES, McMICKEN, DOVELL & RAM-  
SEY, for Libelant.

REYNOLDS, BALLINGER & HUTSON, for  
Claimant.

NETERER, District Judge:

At about 6:30 A. M., June 19, 1909, the "Sea Lion," being 107 feet in length, beam 22 feet, depth of hold 13 feet, having in tow the barge "Charger," having 1700 ton capacity, laden with rock, and sail-

ing from Cowlitz Bay on Waldron Island, bound for Grays Harbor, came into collision with the schooner "Oceania Vance," while proceeding on her regular course toward the Straits of Juan de Fuca, the weather being thick and foggy. The course of the "Sea Lion" was SW. S.  $\frac{1}{4}$ S, that being the usual course for steam vessels outward bound. Upon entering the fog the "Sea Lion" started to blow its whistle, a deep, coarse whistle, one long and two short blasts, the prescribed signal for a vessel having a tow. Fed. Stat. Annot. Vol. 2, page 159, 29 Stat. at L. 381. This was continuously sounded until the time of the collision. Just prior to the collision, the men on board the tug "Sea Lion" heard the "Oceania Vance" giving three blasts, which indicated that she was a sailing vessel. 29 Stat. at L. 381. The "Sea Lion" stopped its engines and blew its tow signal. The schooner answered by three blasts of [168] her horn. The schooner was about 175 to 200 feet distant from the tug when first seen by the men on the tug and was heading toward amidships of the "Sea Lion." The schooner observed the tug when it was about 300 feet distant. On seeing the schooner the mate gave the signal to reverse the engines and ordered the quartermaster to put the wheel hard-a-starboard. At this time the captain, who had previously retired, reached the wheel-house and the mate went aft to endeavor to prevent the hauser from fouling the propeller. The "Sea Lion" when backed, had a habit of swinging around to port very abruptly, thus bringing her right in line with the way the schooner was coming



and making a collision inevitable. The captain, in an endeavor to avert the same, ordered full speed ahead, that being the only chance in his judgment that he then had. The three signals, namely, to stop, to back, and to go ahead, were given one right after the other. At the same time, the captain called to the lookout on the "Oceania Vance" to put the wheel of the schooner over. This request was not complied with, though good seamanship required such action. A few seconds later the bow of the "Oceania Vance" struck the "Sea Lion" about 25 feet forward of the latter's stern, cutting a hole variously estimated from 1½ to 3 feet in width. The "Sea Lion" sank within a few minutes in 72 fathoms of water. The "Oceania Vance," at the time of the collision, was going at a speed to exceed seven miles an hour. She was sailing before the wind, with the foresail, jib, spanker and mizzen-top-sail set. A "strong breeze" was blowing and the place where the collision occurred was where ships frequently pass.

The liability in this case depends wholly upon the fact as to whether or not the speed at which the "Oceania Vance" was going immoderate. It is strongly contended on the part of the claimant that she was going not to exceed a speed of five [169] knots an hour, and that that was not an immoderate speed. I think a fair consideration of the testimony is conclusive that the schooner was going not less than six and one-half or seven knots an hour. The fact that she was sailing before the wind with practically all of her sails set, with a "strong breeze"

blowing, as stated by one of the witnesses, and by practically all of the witnesses that there was a good breeze, and the further fact of the testimony of the captain immediately after the collision that the boat was going at a speed of six and one-half to seven miles an hour, and he had concluded this after an examination of the log, and only modified his testimony upon the hearing some two years after the collision, and all of the facts as disclosed by the witnesses in the record, would indicate that the vessel was moving at the speed suggested. It is also strongly contended upon the part of the claimant that even though the speed of the schooner was seven miles an hour, that that was not an immoderate speed, and that the conduct and action of the tug "Sea Lion" in reversing its engines and then going forward instead of stopping the engines and moving at a moderate speed, was the cause of the injury and it was the negligence of the tug "Sea Lion" that caused the collision. From a fair consideration of the evidence, I think it must be concluded that what was done by the officers of the "Sea Lion" were acts *in extremis*, and whether wise or not, is not imputable as a fault—Ship "Blue Jacket" v. Tacoma Mill Co., 144 U. S. 371; the Ludvig Holberg, 157 U. S. 60. In view of the density of the fog, it was imperative upon the schooner to move at a moderate speed. This is necessary in order to give approaching vessels an opportunity of observation and greater time within which to adjust themselves to the situation. It has been frequently held that a speed of five knots an hour is not an immoderate speed for a sailing ves-

sel. If the schooner had been moving at five knots an hour instead of seven, as I believe the testimony to show, there would [170] have been considerable more time, relatively speaking, after the vessel had been discovered, for the crafts to adjust themselves with relation to the situation, and the collision having occurred at a place where ships are frequently passing, the necessity was therefore emphasized for moderation in speed. This is a duty irrespective of the statute—The Rhode Island, 17 Fed. 554.

In 26 Stat. at Large, page 326, 2d Fed. Stat. Annot., page 160, it is provided.

“Every vessel shall, in a fog, mist, falling snow or heavy rain storm, go at a moderate speed, having careful regard to the existing circumstances and conditions. A vessel hearing, apparently forward of her beam, the fog signal of a vessel, the position of which is not ascertained, shall, so far as the circumstances of the case shall permit, stop her engines, and then navigate with caution until danger of collision is over.”

While this statute does not include sailing crafts, yet the principle enunciated is held to comprehend and be applicable to sailing vessels. The further fact that a sailing vessel cannot be maneuvered in the manner required, is a strong reason, as stated by the courts, for so moderating her speed as to furnish effective aid to an approaching steamer, charged with the duty of avoiding her. She can do practically nothing beyond putting her helm up or down,

to "ease the blow," after the danger of collision has become imminent.

I think this case is on "all-fours" with "The Chattahoochee," 173 U. S. 540, where the duty of a sailing vessel in a fog is defined, and in which the Court reviews all of the authorities.

A consideration of that case with the facts in this case precludes any conclusion other than that a decree should be entered for libelant as prayed for, and it is so ordered.

JEREMIAH NETERER,  
Judge.

[Indorsed]: Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Aug. 31, 1914. Frank L. Crosby, Clerk. By E. M. L. Deputy. [171]

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*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,

Libelant,

vs.

The Schooner "OCEANIA VANCE," Her Tackle,  
Apparel and Furniture,

Respondent.

COAST SHIPPING COMPANY,

Claimant.

**Notice of Taxing Costs.**

To the Above-named Claimant and to Reynolds,  
Ballinger & Hutson, Its Proctors Herein:

You will please take notice that the libelant herein will make application to the clerk of said court, at his office in the Federal Building, in the City of Seattle, Washington, on the 2d day of November, 1914, at the hour of 9:30 o'clock A. M. of said day, to tax said libelant's costs and disbursements in said action. There is herewith served upon you a copy of said libelant's memorandum of costs and disbursements.

Dated: October 30, 1914.

HUGHES, McMICKEN, DOVELL & RAM-  
SEY,

Proctors for Libelant. [172]

Copy of within notice received this 30th day of October, 1914, and consent to said action at said time.

BALLINGER & HUTSON,

Proctors for Claimant.

[Indorsed]: Notice of Taxing Costs. Filed in the U. S. District Court, Western District of Washington, Northern Division. Oct. 30, 1914. Frank L. Crosby Clerk. By E. M. L., Deputy. [173]

*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Cor-  
poration,

Libelant,

vs.

The Schooner "OCEANIA VANCE," her Tackle,  
Apparel and Furniture,

Respondent.

COAST SHIPPING COMPANY,

Claimant.

**Memorandum of Libelant's Costs and Disburse-  
ments.**

To the Clerk of the above-named Court:

You will please tax the following costs and dis-  
bursements in favor of the libelant, Puget Sound  
Tug-Boat Company, and against the claimant, Coast  
Shipping Company, and F. A. Bartlett and H. M.  
Thornton, its sureties, viz:

Clerk's fees .....\$13.70

Marshal's fees ..... 57.69

U. S. Commissioner's fees..... 38.00

Proctor's fees:

Docket fee .....\$20.00

Deposition fees:

Witness C. Anderson ..... 2.50

" C. H. Lewis ..... 2.50

" L. B. Lovejoy..... 2.50



"	G. E. Plummer .....	2.50	
"	J. F. Primrose .....	2.50	
"	Chas. Ross .....	2.50	
"	Wm. J. Smith .....	2.50	
"	H. E. Stream .....	2.50	
"	T. G. Scott .....	2.50	
"	J. G. Williams .....	2.50	
			45.00

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Carried For'd..	\$154.39
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[174]

Brought For'd..	\$154.39
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## Witness' Fees:

Witness C. Anderson, 1 day & mileage .....	\$3.20	
Witness C. H. Lewis, 1 day & mileage .....	3.20	
Witness L. B. Lovejoy, 1 day & mileage .....	3.20	
Witness G. E. Plummer, 1 day & mileage .....	3.20	
Witness J. F. Primrose, 1 day & mileage .....	3.20	
Witness Chas. Ross, 1 day & mileage .....	3.20	
Witness Wm. J. Smith, 1 day & mileage .....	3.20	
Witness H. E. Stream, 1 day & mileage .....	3.20	25.60
		\$179.99

HUGHES, McMICKEN, DOVELL & RAMSEY,  
Proctors for Libelant.

State of Washington,  
County of King,—ss.

H. J. Ramsey, being first duly sworn, on oath deposes and says: That he is one of the proctors for said libelant in the above-entitled cause; that he has read and knows the contents of the above and foregoing memorandum of costs and disbursements, and that the items therein contained are correct, and, with the exception of proctor's fees, have been actually and necessarily disbursed or incurred by said libelant in the prosecution of said action.

H. J. RAMSEY,

Subscribed and sworn to before me this 30th day of October, A. D. 1914.

[Seal]

JOHN P. GARVIN,

Notary Public in and for the State of Washington,  
Residing at Seattle. [175]

Copy of within Memorandum received this 30th day of October, 1914.

BALLINGER & HUTSON,  
Proctors for Claimant.

[Indorsed]: Memorandum of Libelant's Costs and Disbursements. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Oct. 30, 1914. Frank L. Crosby, Clerk. By E. M. L., Deputy. [176]

*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Cor-  
poration,

Libelant,

vs.

The Schooner "OCEANIA VANCE," her Tackle,  
Apparel and Furniture,

Respondent.

COAST SHIPPING COMPANY,

Claimant.

**Decree.**

In this cause, monition having been regularly issued and the said schooner "Oceania Vance," her tackle, apparel and furniture having been duly seized thereunder by the United States Marshal, and said Coast Shipping Company, a corporation, having made and filed herein claim to said vessel, her tackle, apparel and furniture, in the manner provided by the rules of this court, and having filed in said cause its stipulation for costs in the sum of Two Hundred Fifty (\$250.00) Dollars, duly executed by itself and by F. A. Bartlett and H. M. Thornton, as sureties, and having also given and filed herein its bond for the release of said vessel, her tackle, apparel and furniture, in the penal sum of Five Thousand (\$5,000.00) Dollars, duly executed by itself, as principal, and by

The Fidelity and Deposit Company of Maryland, a corporation organized and [177] existing under the laws of the State of Maryland, as surety, and approved by the Court; and said vessel, her tackle, apparel and furniture, having been thereupon released and surrendered to the said claimant; and the testimony in said cause having been duly taken and said cause duly submitted to the Court, and the Court having given and filed herein its opinion and decision;

NOW, THEREFORE, pursuant to the Court's decision, it is hereby ORDERED, ADJUDGED and DECREED that the above-named libelant, Puget Sound Tug-Boat Company, have and recover of and from said Coast Shipping Company, a corporation, and said The Fidelity and Deposit Company of Maryland, a corporation, the sum of Five Thousand (\$5,000.00) Dollars, with interest thereon from this date until paid at the rate of six per cent (6%) per annum; and that said libelant have execution therefor against said Coast Shipping Company, a corporation, and said The Fidelity and Deposit Company of Maryland, a corporation, and that said libelant Puget Sound Tug-Boat Company, have and recover of and from the said Coast Shipping Company and said F. A. Bartlett and H. M. Thornton the said libelant's costs and disbursements herein taxed at the sum of One Hundred Seventy-nine and 99/100 Dollars, and have execution therefor against said Coast Shipping Company and said F. A. Bartlett and H. M. Thornton.

And it is by the Court ORDERED that no execution

issue upon this decree for the collection of any portion thereof for the period of ten (10) days from this date, and that said decree may be stayed in whole or in part at any time within ten (10) days from this date, by the giving of a supersedeas bond and taking an appeal in the manner provided by law and the rules of the United States Circuit [178] Court of Appeals for the Ninth Circuit.

Done in open court this 4th day of Nov., 1914.

JEREMIAH NETERER,  
Judge.

O. K. as to form.

BALLINGER & HUTSON,  
Proctors for Claimant.

[Indorsed]: Decree. Filed in the U. S. District Court, Western Dist. of Washington, Nov. 4, 1914. Frank L. Crosby, Clerk. By E. M. L., Deputy.  
[179]

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*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,

Libelant,

vs.

The Schooner "OCEANIA VANCE," her Tackle,  
Apparel and Furniture,

Respondent.

COAST SHIPPING COMPANY, a Corporation,  
Claimant.

**Order Fixing Amount of Stay Bond.**

This cause coming on to be heard on the application of claimant, Coast Shipping Company, for an order fixing the amount of bond to stay the execution of final decree against said claimant and its bond given for the release of said vessel in this cause, upon appeal from said decree, the said decree being dated the 4th day of November, 1914, libelant appearing by Messrs. Hughes, McMicken, Dovell & Ramsey, its proctors, and claimant appearing by Messrs. Ballinger & Hutson, its proctors, and the court being duly advised in the premises,

IT IS HEREBY ORDERED: That the amount of bond which said claimant, Coast Shipping Company, a corporation, shall give to stay the execution of the final decree herein, pending appeal from said decree, shall be the sum of Seven Thousand Two Hundred Fifty Dollars in addition to the sum of Two Hundred Fifty Dollars (\$250.00) bond for costs on appeal.

Dated at Seattle, Washington, this 4th day of February, A. D., 1915.

EDWARD E. CUSHMAN,

Judge. [180]

[Indorsed]: Order Fixing Amount of Stay Bond. Filed in the U. S. District Court, Western Dist of Washington, Northern Division, Feb. 3, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy.  
[181]



*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,

Libelant,

vs.

The Schooner "OCEANIA VANCE," her Tackle,  
Apparel and Furniture,

Respondent,

COAST SHIPPING COMPANY, a Corporation,  
Claimant.

**Notice of Appeal.**

To the Above-named Libelant, Puget Sound Tug-Boat Company, a Corporation, and to Messrs, Hughes, McMicken, Dovell & Ramsey, Proctors for Libelant:

Please take notice that the above-named Coast Shipping Company, a Corporation, claimant of the schooner "Oceania Vance," her tackle, apparel and furniture, respondent, does hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the final decree made and entered in this cause wherein and whereby the above-named District Court did render judgment against this claimant and against the Fidelity and Deposit Company of Maryland, a corporation, in the sum of Five Thousand Dollars (\$5000.00) with interest, and did render judgment against said claimant and F. A.

Bartlett and H. M. Thornton for libelant's costs and disbursements, therein taxed at the sum of One Hundred Seventy-nine and 99/100 Dollars (\$179.99) which said final decree was made on, to wit, the 4th day of November, 1914.

This appeal is from the whole of said decree and each and every part thereof.

COAST SHIPPING COMPANY, a Corporation,  
Claimant.

BALLINGER & HUTSON,  
Proctors for Claimant.

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Proctors for Claimant. [182]

Due and timely service of within notice of appeal admitted by receipt of copy thereof this 18th day of March, A. D. 1915, after the filing thereof.

HUGHES, McMICKEN, DOVELL & RAMSEY,  
Proctors for Libelant.

[Indorsed]: Notice of Appeal. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Mar. 18, 1915. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [183]

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*In the United States Circuit Court of Appeals,  
Ninth Circuit.*

No. 4046.

COAST SHIPPING COMPANY, a Corporation,  
Appellant,

vs.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,  
Appellee.

KNOW ALL MEN BY THESE PRESENTS, That we, Coast Shipping Company, a corporation, as principal, and Southwestern Surety Insurance Company, a corporation, as surety, are held and firmly bound unto Puget Sound Tug-Boat Company, a corporation, appellee above-named, in the full and just sum of Seven Thousand Five Hundred Dollars (\$7,500.00) to be paid to the said Puget Sound Tug-Boat Company, its successors and assigns, for which payment, well and truly to be made, we bind ourselves and our and each of our successors and assigns, jointly and severally firmly by these presents.

SEALED with our seals and dated this 18th day of March, A. D. 1915.

WHEREAS, lately, to wit, on the 4th day of November, 1914, at the District Court of the United States for the Western District of Washington, Northern Division, in a suit in admiralty pending in said Court between said Puget Sound Tug-Boat Company as libelant against the schooner "Oceania Vance," her tackle, apparel and furniture, as respondent, and said Coast Shipping Company, a corporation, claimant, wherein said claimant gave bond in the sum of Five Thousand Dollars (\$5,000.00) for the release of said schooner, a final decree was rendered in favor of said libelant, the above-named appellee, and against said Coast Shipping Company, claimant, the above-named appellant, and [184] against the Fidelity and Deposit Company of Maryland, a corporation, surety upon said bond, in the sum of Five Thousand Dollars (\$5,000.00) and interest; and further rendered judgment against said

claimant and its surety on its stipulation for costs, in the sum of One Hundred Seventy-nine and 99/100 Dollars (\$179.99) and in favor of said appellee; the said Coast Shipping Company, claimant in said action and the appellant above-named, having filed and served notice of appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the aforesaid final decree to reverse the same, and having obtained a citation directed to said Puget Sound Tug-Boat Company of date the 18th day of March, 1915, citing and admonishing it to be and appear in said United States Circuit Court of Appeals for the Ninth Circuit in the City of San Francisco, California, within thirty days of the date thereof;

NOW, THEREFORE, the condition of the above obligation is such that if the above bounden Coast Shipping Company, a corporation, shall prosecute its appeal to effect and pay the costs of such appeal, if the appeal is not sustained, and shall abide by and perform whatever decree may be rendered by said United States Circuit Court of Appeals for the Ninth Circuit in the cause, or on the mandate of said United States Circuit Court of Appeals for the Ninth Circuit by the court below, and pay any decree of the Court upon appeal or otherwise, and answer all damages and costs if it fails to make its appeal good, then the above obligation to be void; otherwise

to remain in full force and virtue.

COAST SHIPPING COMPANY,

Appellant.

By H. BALLINGER,

Its Proctor and Agent.

O. K.—HUGHES, McMICKEN D. & R.,

Proctors for Appellee.

SOUTHWESTERN SURETY INSUR-  
ANCE COMPANY.

[Seal]

By E. LAMPING,

Agent.

R. G. DENNEY,

Atty. in Fact.

The foregoing bond approved this 19th day of  
March, 1915.

JEREMIAH NETERER,

United States District Judge. [185]

[Indorsed]: Appeal Bond. Filed in the U. S.  
District Court, Western Dist. of Washington, North-  
ern Division, Mar. 19, 1915. Frank L. Crosby,  
Clerk. By Ed. M. Lakin, Deputy. [186]

*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Cor-  
poration,

Libelant,

vs.

The Schooner "OCEANIA VANCE," Her Tackle,  
Apparel and Furniture,

Respondent.

COAST SHIPPING COMPANY, a Corporation,  
Claimant.

### **Assignments of Error.**

The above-named claimant, Coast Shipping Company, a corporation, assigns for error in the findings, conclusions and decree of the District Court in the above-entitled cause, that the Learned Judge erred as follows:

1. In finding that the tug "Sea Lion" continuously sounded the proper signal from the time of entering the fog until the time of the collision.

2. In finding and deciding that upon hearing the signal of the "Oceania Vance" just prior to the collision, the "Sea Lion" stopped its engines and blew its tow signal.

3. In holding and deciding that the "Sea Lion" stopped its engines as soon as those on board the "Sea Lion" heard the "Oceania Vance" give its signal.



4. In holding and deciding that at the time the captain of the tug "Sea Lion" gave the signals to stop, to back, to go ahead, he called to the lookout on the "Oceania Vance" to put the wheel of the schooner over.

5. In holding and finding that good seamanship required that the wheel of the schooner be put over.  
[187]

6. In holding and deciding that the "Oceania Vance," at the time of the collision, was going at a speed to exceed seven miles an hour.

7. In holding and deciding that a strong breeze was blowing at a moderate rate of speed up to the time of the collision.

9. In holding and finding that the place of the collision was a place where ships were frequently passing.

10. In holding and finding that the acts of the officers of the "Sea Lion" at and about the time of the collision were acts *in extremis* and not imputable to them as a fault.

11. In failing to hold and find that said tug was in fault in failing, when it started to back, to give the proper signal to show that it was backing.

12. In failing to hold and find that said tug was negligent in that when it stopped it was then backed and then started forward, the course of the schooner not having been changed.

13. In failing to find that the tug was at fault in that it violated Article XVI of the International Rules to Prevent Collisions, contained in the Act of August 19, 1890, in that said tug did not, upon hear-

ing apparently forward of her beam, the fog signal of the "Oceania Vance," the position of which was not ascertained, stop her engines and then navigate with caution until danger of collision was over.

14. In entering final decree of November 4th, 1914, in favor of libelant and against claimant and its said bondsmen; and (a) in entering judgment against claimant and the Fidelity and Deposit Company of Maryland in the sum of \$5,000.00 with interest; and, (b) in entering judgment against claimant and F. A. Bartlett and H. M. Thornton for respondent's costs and disbursements in the sum of One Hundred Seventy-nine and 99/100 Dollars (\$179.99). [188]

15. In refusing to enter judgment in favor of claimant and against libelant dismissing the libel of libelant and for costs against libelant and in favor of claimant.

COAST SHIPPING COMPANY, a Corporation,

Claimant.

BALLINGER & HUTSON,

Proctors for Claimant.

Due and timely service of within assignments of error admitted by receipt of copy thereof this 18th day of March, 1915.

HUGHES, McMICKEN, DOVELL & RAMSEY,

Proctors for Libelant.

[Indorsed]: Assignments of Error. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Mar. 18, 1915. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. [189]

*In the United States Circuit Court of Appeals,  
Ninth Circuit.*

No. 4046.

COAST SHIPPING COMPANY, a Corporation,  
Appellant,

vs.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,  
Appellee.

**Notice [of Filing of Stay Bond].**

To Puget Sound Tug-Boat Company, a Corporation,  
Appellee Above Named, and to Messrs. Hughes,  
McMicken, Dovell & Ramsey, Proctors for Said  
Appellee:

You, and each of you, are hereby notified that Coast Shipping Company, a corporation, the above-named appellant, has this day filed a bond in the sum of Seven Thousand Two Hundred Fifty Dollars (\$7,250.00) staying execution of final decree in the above-entitled cause in the court below, conditioned as required by law, and that the name and address of the surety on said bond is: Southwestern Surety Insurance Company, a corporation, E. Lamping, Agt., and R. G. Denney, its attorney in fact, care George B. Lamping & Company, 201 and 250 Colman Building, Seattle, Washington.

Dated at Seattle, Washington, March 19th, 1915.

BALLINGER & HUTSON,

Proctors for Appellant.

Copy of within Notice received this 18th day of March, 1915.

HUGHES, McM. D. & L.,  
Proctors Appellee.

[Indorsed] Notice. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Mar. 22, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [190]

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*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,

Libelant,

vs.

Steamer "OCEANIA VANCE," Her Tackle, Apparel and Furniture,

Respondent,

**Order to Transmit Original Exhibits.**

Now, on this 1st day of April, 1915, upon motion of Messrs. Ballinger & Hutson, Proctors for Claimant and Appellant, and for sufficient cause appearing, it is ordered that Libelant's Exhibits "A" and "B," filed and introduced as evidence upon the trial of this cause, be by the clerk of this court, forwarded to the United States Circuit Court of Appeals for the Ninth Judicial Circuit, there to be inspected and considered together with the transcript of the record on appeal in this cause.

JEREMIAH NETERER,  
District Judge.

[Indorsed]: Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, April 1, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [191]

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*In the United States Circuit Court of Appeals,  
Ninth Circuit.*

No. —.

COAST SHIPPING COMPANY, a Corporation,  
Appellant,

vs.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,  
Appellee.

**Citation [Copy].**

The President of the United States of America, to  
Puget Sound Tug-Boat Company, a Corporation,  
Libelant and Appellee in the Above-entitled Cause, and to Messrs. Hughes, McMicken,  
Dovell & Ramsey, Its Proctors:

You, and each of you, are hereby cited and admonished to appear in the United States Circuit Court of Appeals for the Ninth Circuit to be held at the City of San Francisco, State of California, within thirty days from the date hereof, pursuant to an appeal filed in the office of the Clerk of the United States District Court for the Western District of Washington, Northern Division, whereof the Coast Shipping Company, a corporation, claimant below, is appellant, and you are appellee, to show cause, if

any there be, why the decree rendered against appellant as in said appeal, should not be granted, and why speedy justice should not be done for the parties in the behalf.

WITNESS The Honorable EDWARD DOUGLASS WHITE, Chief Justice of the Supreme Court of the United States of America, this 18th day of March, A. D. 1915.

JEREMIAH NETERER,  
Judge, United States District Court for the Western  
District of Washington, Northern Division.

[Seal] Attest: FRANK L. CROSBY,  
Clerk of Said Court. [192]

**Return on Service of writ.**

United States of America,  
Western District of Washington,—ss.

I hereby certify and return that I served the annexed Citation on the therein-named Hughes, McMicken, Dovell & Ramsey, by leaving a copy with Otto B. Rupp, a member of the firm, by handing to and leaving a true and correct copy thereof with Otto B. Rupp, personally, at Seattle, in said District on the 18th day of March, A. D. 1915.

Fees: \$2.12.

JOHN M. BOYLE,  
U. S. Marshal.  
By A. Rooks,  
Deputy.

[Indorsed]: No. 4046. Original. In the United States Circuit Court of Appeals, Ninth Circuit, Coast Shipping Company, a Corporation, Appellant,



vs. Puget Sound Tug-Boat Company, a Corporation, Appellee. Citation. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Mar. 18, 1915. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. Ballinger & Hutson, Attorneys for Appellant. 529-530-532-533. Pioneer Building, Seattle. [193]

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*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,

Libellant,

vs.

Steamer "OCEANIA VANCE," Her Tackle, Apparel and Furniture,

Respondent.

COAST SHIPPING COMPANY, a Corporation,  
Claimant.

**Praeceptum for Apostles.**

To the Clerk of the Above-entitled Court:

Please make and certify and forward to the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, for filing therein, the following papers filed in the above-entitled cause and court, to wit:

1. Caption, exhibiting the proper style of the court and the title of the cause, a copy whereof is herewith placed in your hands.

2. Names and addresses of counsel, statement of which is herewith filed with you.
3. Statement required by the rules of the United States Circuit Court of Appeals for the Ninth Circuit.
4. Libel.
5. Appearance.
6. Stipulation for costs.
7. Praecipe for monition.
8. Monition and return thereon.
9. Claim.
10. Claimant's appearance.
11. Claimant's stipulation for costs.
12. Stipulation for release of vessel on bond.
13. Bond for release of vessel.
14. Answer of Coast Shipping Company.
15. Order of reference.
16. Order continuing over term, dated May 6, 1913.
17. All testimony and other proofs produced in the cause; the same being that reported and filed by the Commissioner. [194]
18. Memorandum decision of the court.
19. Cost bill and notice to tax costs.
20. Final decree.
21. Order fixing bond on appeal.
22. Notice of appeal.
23. Bond on appeal.
24. Assignments of error.
25. Notice of filing bond on appeal.
26. Citation and return.
- ~~27. Orders enlarging time for filing record.~~
28. This praecipe.

Dated at Seattle, Washington, March 25, 1915.

BALLINGER & HUTSON,

Proctors for Claimant.

[Indorsed]: Praeceptum for Apostles. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Mar. 25, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [195]

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*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,

Libellant,

vs.

Steamer "OCEANIA VANCE," Her Tackle, Apparel and Furniture,

Respondent,

COAST SHIPPING COMPANY, a Corporation,  
Claimant.

**Certificate of Clerk U. S. District Court to Apostles,  
etc.**

United States of America,

Western District of Washington,—ss.

I, Frank L. Crosby, Clerk of the United States District Court, for the Western District of Washington, do hereby certify the foregoing 195 pages, numbered from 1 to 195, inclusive, to be a full, true, correct and complete copy of so much of the record,

papers and other proceedings in the above and foregoing entitled cause, as are necessary to the hearing of said cause in the United States Circuit Court of Appeals for the Ninth Circuit, and as is called for by counsel of record herein, as the same remain of record and on file in the office of the Clerk of said District Court, and that the same constitutes the record on appeal to the said Circuit Court of Appeals for the Ninth Circuit from the District Court of the United States for the Western District of Washington. [196]

I further certify the following to be a full, true and correct statement of all expenses, costs, fees and charges incurred and paid in my office by or on behalf of the claimant and appellant for making record, certificate or return to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause, to wit:

Clerk's fee (Sec. 828 R. S. U. S.)	
for making record, certificate or	
return, 366 folios at 15c. ....	\$ 54.90
Certificate of Clerk to transcript of	
record, 4 folios at 15c. ....	.60
Seal to said Certificate .....	.20
Certificate of Clerk to Original Ex-	
hibits, 3 folios at 15c. ....	.45
Seal to said Certificate .....	.20
Total,	<hr/> 56.35

I hereby certify that the above cost for preparing and certifying record amounting to \$56.35, has been

paid to me *my* Messrs. Ballinger & Hutson, Proctors for Claimant and Appellant.

I further certify that I hereto attach and herewith transmit the original Citation issued in this cause.

IN WITNESS WHEREOF I have hereto set my hand and affixed the seal of said District Court at Seattle, in said District, this 6th day of April, 1915.

[Seal]

FRANK L. CROSBY,

Clerk United States District Court. [197]

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*In the United States Circuit Court of Appeals, Ninth Circuit.*

No. 4046.

COAST SHIPPING COMPANY, a Corporation,  
Appellant,

vs.

PUGET SOUND TUG-BOAT COMPANY, a Corporation,

Appellee.

**Citation [Original].**

The President of the United States of America, to Puget Sound Tug-Boat Company, a Corporation, Libelant and Appellee in the Above-entitled Cause, and to Messrs. Hughes, McMicken, Dovell & Ramsey, Its Proctors:

You, and each of you, are hereby cited and admonished to appear in the United States Circuit Court of Appeals for the Ninth Circuit to be held at the City of San Francisco, State of California, within thirty days from the date hereof, pursuant

to an appeal filed in the office of the Clerk of the United States District Court for the Western District of Washington, Northern Division, whereof the Coast Shipping Company, a corporation, claimant below, is appellant, and you are appellee, to show cause, if any there be, why the decree rendered against appellant as in said appeal, should not be granted, and why speedy justice should not be done for the parties in the behalf.

WITNESS the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the Supreme Court of the United States of America, this 18th day of March, A. D. 1915.

JEREMIAH NETERER,  
Judge, United States District Court for the Western District of Washington, Northern Division.

[Seal]                      Attest: FRANK L. CROSBY,  
Clerk of said Court. [198]

RETURN ON SERVICE OF WRIT.

United States of America,  
Western District of Washington,—ss.

I hereby certify and return that I served the annexed Citation on the therein named Hughes, McMicken, Dovell & Ramsey, by leaving a copy with Otto B. Rupp, a member of the firm, by handing to and leaving a true and correct copy thereof with Otto B. Rupp, personally, at Seattle, in said District, on the 18th day of March, A. D. 1915.

JOHN M. BOYLE,  
U. S. Marshal.

By A. Rooks,  
Deputy. [199]



[Endorsed]: 4046. Original. In the United States Circuit Court of Appeals, Ninth Circuit. Coast Shipping Company, a Corporation, Appellant, vs. Puget Sound Tug-Boat Company, a Corporation, Appellee. Citation. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Mar. 18, 1915. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy.

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[Endorsed]: No. 2599. United States Circuit Court of Appeals for the Ninth Circuit. Coast Shipping Company, a Corporation, Claimant of the Schooner "Oceania Vance," Her Tackle, Apparel and Furniture, Appellant, vs. Puget Sound Tug-Boat Company, a Corporation, Appellee. Apostles. Upon Appeal from the United States District Court for the Western District of Washington, Northern Division.

Filed April 8, 1915.

F. D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

By Meredith Sawyer,  
Deputy Clerk.

*In the District Court of the United States for the  
Western District of Washington, Northern  
Division.*

No. 4046.

PUGET SOUND TUG-BOAT COMPANY, a Cor-  
poration,

Libelant,

vs.

Steamer "OCEANIA VANCE," Her Tackle, Ap-  
parel and Furniture,

Respondent.

COAST SHIPPING COMPANY, a Corporation,  
Claimant.

**Certificate of Clerk U. S. District Court to Original  
Exhibits.**

United States of America,  
Western District of Washington,—ss.

I, Frank L. Crosby, Clerk of the District Court of the United States for the Western District of Washington, do hereby certify that the hereto attached sealed package contains the original exhibits introduced and used upon the hearing and trial of the above-entitled cause, as follows: Libelant's exhibits "A" and "B"; which said original exhibits are herewith transmitted to the Circuit Court of Appeals, there to be inspected and considered together with the transcript of the record on appeal in the above-entitled cause; which said exhibits are so transmitted pursuant to the order of the said Dis-

trict Court, so directing, a copy of which said order will be found on page 191 of the record on appeal in said above-entitled cause.

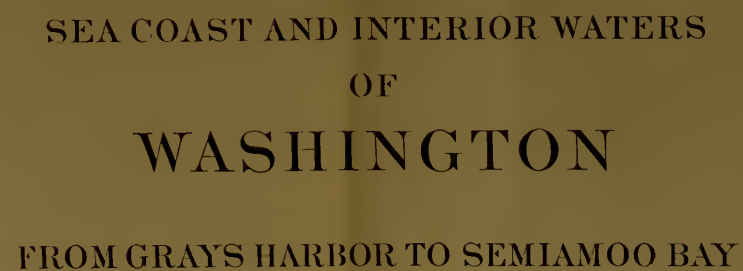
IN TESTIMONY WHEREOF I have hereunto set my hand and affixed my official seal, at Seattle, in said District, this 6th day of April, 1915.

[Seal]

FRANK L. CROSBY,

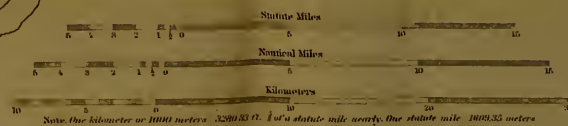
Clerk United States District Court.

[Endorsed]: No. 2599. United States Circuit Court of Appeals for the Ninth Circuit. Coast Shipping Company, a Corporation, etc., vs. Puget Sound Tug-Boat Co., a Corporation. Certificate of Clerk U. S. District Court to Libellant's Exhibits "A" and "B," etc. Filed Apr. 8, 1915. F. D. Monckton, Clerk.



Scale 300'000

*Published at Washington, D. C.,  
July 1911  
BY THE COAST AND GEODETIC SURVEY  
O. H. Tiltman, Superintendent.*



*Note. Notice Boards for the direction of ship-wrecked mariners have been established at intervals between Cape Beale Light and San Juan Point.*



Lines dividing the high seas from inland waters



## Projection)

300,000<sup>1</sup>

Washington, D. C.  
1911  
GEOLOGIC SURVEY  
Superintendent.

1609.344 meters

10

1 statute mile nearly, one statute mile = 1609.344 meters

20

of ship-wrecked mariners have been  
to Beale light and San Juan Point.

Lanes dividing the high seas from inland waters  
(relating to Rules of the Road)

Sounds of Enns Washington and Puget sounds.—From NewHoguesness light-house to Cathe Point light (Mount Constitution is in range with Cathe Point light on this line); from Bellevue Point, N.W.  $\frac{1}{2}$  N.  $\frac{3}{4}$  E. 3 miles to Keller Bluff; (a tangent to the point and bluff); thence N.W.  $\frac{1}{2}$  N. to Turn Point light; thence N.E.  $\frac{1}{2}$  E. to the western point of Skippack Island; thence N. by E.  $\frac{1}{2}$  E. to Patos Island light; from the eastern end of Patos Island to the southwestern point of Point Roberts.





Strait of Juan de Fuca and Puget Sound. From New Dungeness Lighthouse to Cattle Point Light (Mount Constitution is in range with Cattle Point light on this line from Bellevue Point, N.W. 1/2 miles to Keller Bluff to tangent to the point and bluff), thence N.W. 1/2 to Turn Point light; thence N.E. 1/2 to the western point of Mopack Island; thence N.E. 1/2 to Potos Island light from the eastern end of Potos Island to the southwestern point of Point Roberts.

Triangulation between 1853 and 1908  
Topography 1852 and 1910  
Hydrography 1852 and 1899  
Additional corrections from various sources 1910

TIDES

The two tides of the day are generally unequal; the inequality varying with the moon's declination.

The plane of reference is the mean of the lower low waters except in Puget Sound, where it is two feet below that plane.

	Cape Mudge Light	Cape Flattery Light	Port Angeles	Port Townsend	Seattle	Port Blakely	Port Blakely	Port Blakely
Mean time of high water after moon's meridian passage	12 <sup>h</sup> 15 <sup>m</sup>	0 <sup>h</sup> 08 <sup>m</sup>	2 <sup>h</sup> 10 <sup>m</sup>	4 <sup>h</sup> 47 <sup>m</sup>	3 <sup>h</sup> 47 <sup>m</sup>	4 <sup>h</sup> 20 <sup>m</sup>	4 <sup>h</sup> 32 <sup>m</sup>	4 <sup>h</sup> 55 <sup>m</sup>
Mean time of low water after moon's meridian passage	5 45	6 16	8 23	10 30	9 32	10 33	10 45	11 20
Mean height of higher high water above plane of reference	8.9 ft.	7.5 ft.	7.3 ft.	8.2 ft.	10.8 ft.	13.4 ft.	13.8 ft.	17.7 ft.
Mean height of all high waters above plane of reference	8.3 ft.	6.9 ft.	7.0 ft.	7.5 ft.	10.0 ft.	12.7 ft.	12.9 ft.	16.7 ft.
Mean height of all low waters above plane of reference	1.4 ft.	1.2 ft.	2.6 ft.	2.5 ft.	4.9 ft.	5.0 ft.	4.9 ft.	5.9 ft.

The predicted time and height of the tide can be obtained from the TIDE TABLES published annually by the Coast and Geodetic Survey.

LIGHTS

F. signifies Flash; Fl. Flashing; Fl. Flash; Fl. Flash; Occ. Occulting; W. White; R. Red; v. varied by Sec. Section

Name	Character	Interval of flashes	Color of structure	Height above water	Visibility on clear night (in U.S. fathoms)	For	Submarine Bells
Groves Harbor	Fl. R. & W.	0 <sup>m</sup> 05 <sup>s</sup>		122 ft.	10	Seven	
Destruction Island	Fl. W.	0 10	White	147	18	Seven	
Umatilla Reef (Light Vessel)	2 F. W.		Red	39	24	Seven	
Cape Flattery	6p. Fl. W. (3) R. sec.	0 30	White	155	19	Seven	
Edin Hook	6p. Fl. W. (3)	0 10	White	44	12	Seven	
New Dungeness	6p. Dec. W. (3)	0 30	Black and white	90	15	Seven	
Smith Island	Fl. W.	0 15	White	87	15	Seven	
Point Wilson	F. W. R. F.	0 20	White	50	15	Seven	
Point No Point	F. W.		White	23	9	Seven	
West Point	Fl. R. & W.	0 10	White	232	10	Seven	
Cape Beale	Fl. W.	0 30	White	178	19	Seven	
Carmannah	Fl. W.	0 15	White	173	19	Seven	
Race Rocks	Fl. W.	0 10	Black and white	118	18	Seven	
Esquimalt (Fisgard Island)	F. W.		White	127	17	Seven	

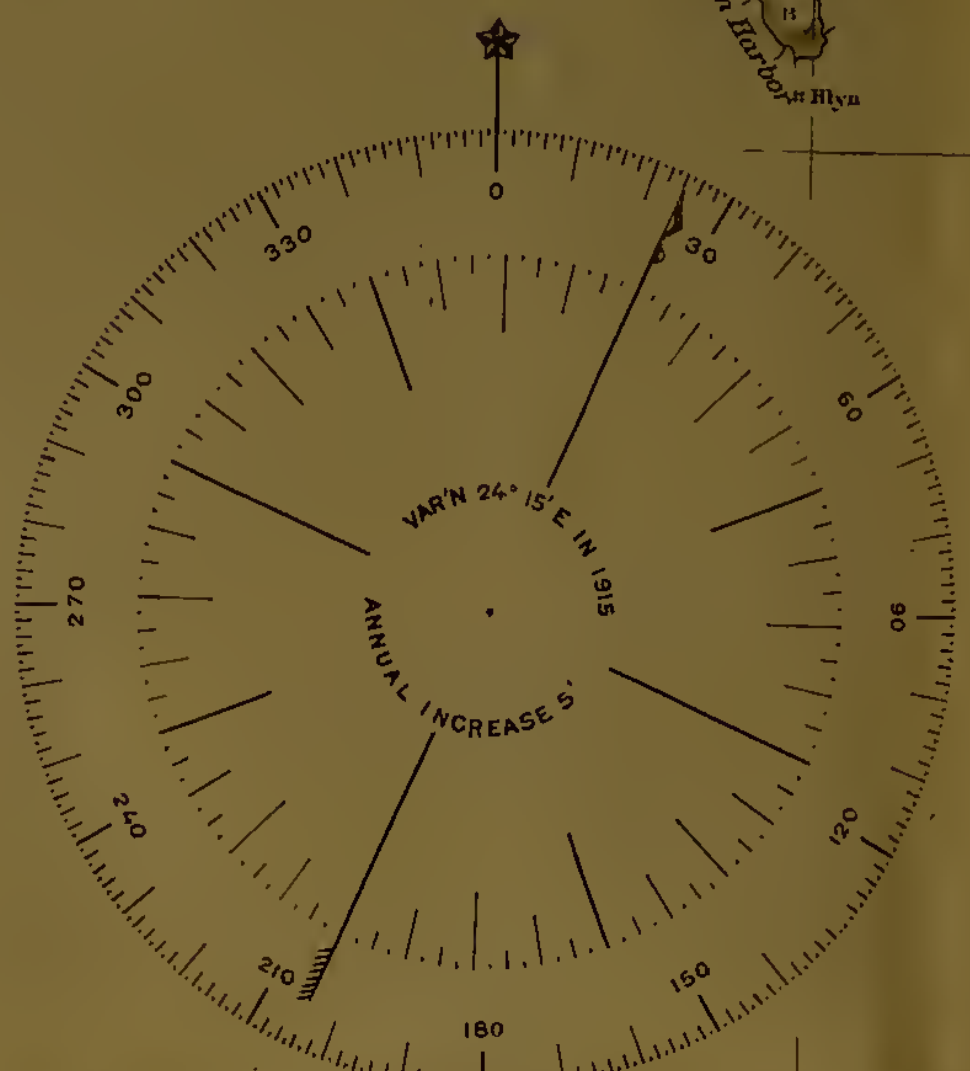




Triangulation between 1853 and 1908
Topography 1852 and 1910
Hydrography 1852 and 1909
Additional corrections from various sources 1910

TIDES
The plane of reference is the mean of the lower low waters except in Puget Sound, where it is two feet below that plane.

	Grays Harbor	Cape Flattery	Port Angeles	Bellingham	Port Townsend	Seattle	Tacoma	Olympia
Mean time of high water after moon's meridian passage	12h 15m	0h 08m	2h 10m	4h 47m	3h 47m	4h 32m	4h 32m	4h 55m
Mean time of low water after moon's meridian passage	5 45	6 16	8 23	10 30	9 32	10 33	10 45	11 20
Mean height of higher high water above plane of reference	8.9 ft.	7.5 ft.	7.3 ft.	8.2 ft.	10.8 ft.	13.4 ft.	13.8 ft.	17.7 ft.
Mean height of all high waters above plane of reference	8.3 "	6.9 "	7.0 "	7.5 "	10.0 "	12.7 "	12.9 "	16.7 "
Mean height of all low waters above plane of reference	1.4 "	1.2 "	2.6 "	2.5 "	4.9 "	5.0 "	4.9 "	5.9 "



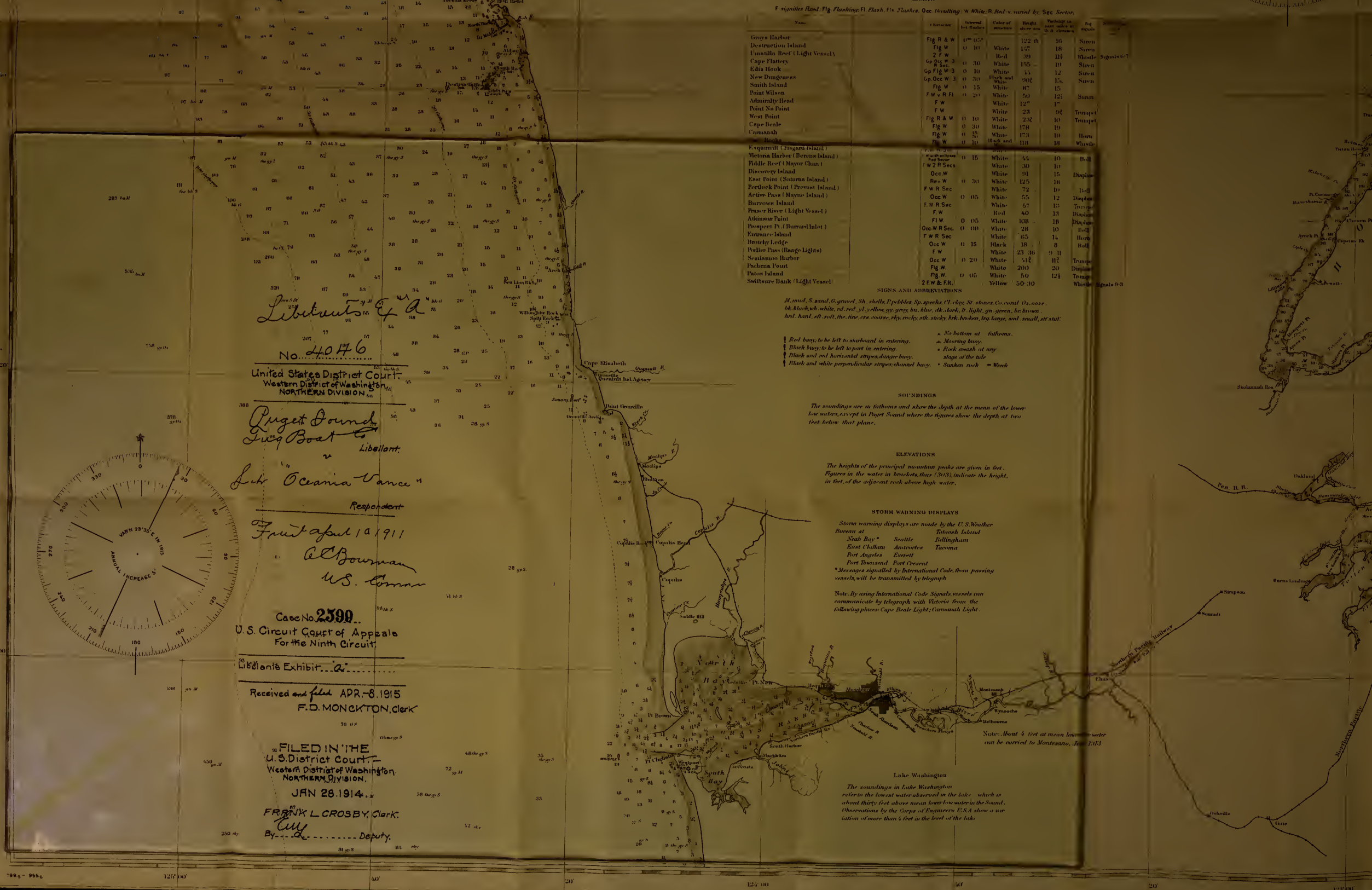
LIGHTS
F. signifies fixed; Fl. Flashing; Fl. Flash; Fls. Flashes; Occ. Occulting; W. White; R. Red; v. varied; by Sec. Sector.

Name	Character	Interval bet. flashes	Color of structure	Height above sea	Visibility in statute miles at 15 ft. elevation	Fig. Signal	Submarine Bells
Grays Harbor	Fig. R. & W.	0m 05s		122 ft.	16	Siren	
Destruction Island	Fig. W.	0 10	White	167 "	18	Siren	
Umatilla Reef (Light Vessel)	2 F. W.		Red	39 "	11s	Whistle	
Cape Flattery	Gp. Occ. W. (3)	0 30	White	155 "	10	Siren	Signals G-7
Ediz Hook	Gp. Fig. W. (3)	0 10	White	4s	12	Siren	
New Dungeness	Gp. Occ. W. (3)	0 30	Black and White	90s	15s	Siren	
Smith Island	Fig. W.	0 15	White	87 "	15	Siren	
Point Wilson	F. W. v. R. Fl.	0 20	White	50 "	12s	Siren	
Admiralty Head	F. W.		White	127 "	17		
Point No Point	F. W.		White	23 "	9s	Trumpet	
West Point	Fig. R. & W.	0 10	White	23s	10	Trumpet	
Cape Beale	Fig. W.	0 30	White	178 "	19		
Carmanah	Fig. W.	0 15	White	173 "	19	Horn	
Race Rocks	Fig. W.	0 10	Black and White	118 "	18	Whistle	
Esquimalt (Fisgard Island)	F. W. R. Sec.		White	67 "	10		
Victoria Harbor (Berens Island)	F. W. with eclipses	0 15	White	4s	10	Bell	
Fiddle Reef (Mayor Chan)	Red Sector		White	30 "	10		
Discovery Island	F. W. 2 R. Secs		White	30 "	10		
East Point (Sauna Island)	Rev. W.	0 30	White	125 "	18	Diaphane	
Portlock Point (Prevost Island)	F. W. R. Sec.		White	72 "	10	Bell	
Active Pass (Mayne Island)	Occ. W.	0 05	White	55 "	12	Diaphane	
Burrows Island	F. W. R. Sec.		White	57 "	13	Trumpet	
Fraser River (Light Vessel)	F. W.		Red	40 "	13	Diaphane	
Atkinson Point	Fl. W.	0 05	White	108 "	16	Diaphane	
Prospect Pt. (Burrows Inlet)	Occ. W. R. Sec.	0 10	White	28 "	10	Bell	
Entrance Island	F. W. R. Sec.		White	65 "	14	Horn	
Brocton Ledge	Occ. W.	0 15	Black	18 "	8	Horn	
Forster Pass (Range Lights)	F. W.		White	23-36	9-11	Trumpet	
Sentiamo Harbor	Occ. W.	0 20	White	41s	11s	Diaphane	
Pachena Point	Fig. W.		White	200	20	Diaphane	
Patos Island	Fig. W.	0 05	White	50	12s	Trumpet	
Swiftsure Bank (Light Vessel)	2 F. W. & R.		Yellow	50-30		Whistle	Signals 9-3

Signs and Abbreviations
M. mud; S. sand; G. gravel; Sh. shells; P. pebbles; Sp. specks; Cl. clay; St. stones; Co. coral; Oz. ooze.
bk. black; wh. white; rd. red; y. yellow; gy. gray; bu. blue; dk. dark; l. light; gn. green; br. brown.
hd. hard; st. soft; f. fine; crs. coarse; cly. rocky; stk. sticky; brk. broken; bry. large; smd. small; st. stuff.

- Red buoy to be left to starboard in entering.
- Black buoy to be left to port in entering.
- Black and red horizontal stripes: danger buoy.
- Black and white perpendicular stripes: channel buoy.
- No bottom at fathoms.
- Mooring buoy.
- Rock awash at any stage of the tide.
- Sunken rock. Wreck.





LIGHTS				
Name	Character	Intensity	Color of structure	Height above sea
Grays Harbor	Fig R & W	122 ft	White	10
Destruction Island	Fig W	10	White	157
Vanilla Reef (Light Vessel)	2 F W	30	Red	39
Cape Flattery	Op Fig W 3	0 30	White	155
Edix Hook	Op Fig W 3	0 30	White	15
New Dungeness	Op Fig W 3	0 30	White	15
Smith Island	Fig W	15	White	15
Point Wilson	FW & R Fl	2 21	White	50
Admiralty Head	FW	12	White	17
Point No Point	FW	23	White	94
West Point	Fig R & W	0 10	White	234
Cape Beale	Fig W	0 30	White	178
Carmansh	Fig W	0 35	White	173
Rocky	Fig W	0 10	Black and white	116
E. equidistant (Frigate Island)	FW & R Fl	0 15	White	44
Victoria Harbor (Berean Island)	FW & R Fl	0 15	White	30
Fiddle Reef (Mayor Chan)	Occ W	0 30	White	91
Discovery Island	Rev W	0 30	White	125
East Point (Saturna Island)	FW & R Sec	0 05	White	72
Portlock Point (Preston Island)	Occ W	0 05	White	55
Active Pass (Mayne Island)	FW & R Sec	0 05	White	57
Burrows Island	FW	40	Red	13
Praser River (Light Vessel)	FW	0 05	White	108
Atkinson Point	Occ W & R Sec	0 08	White	28
Prospect Pt. (Burard Inlet)	FW & R Sec	0 05	White	85
Entrance Island	Occ W	0 15	Black	18
Druidy Lodge	FW	White	23 36	9 11
Pulter Pass (Range Lights)	Occ W	0 20	White	112
Seaman Harbor	Fig W	White	200	20
Pachema Point	Fig W	0 05	White	50
Paton Island	2 F W & R	Yellow	50 30	121
Swinsure Bank (Light Vessel)				

M. mud, S. sand, G. gravel, Sh. shells, F. fiddles, Sp. specks, Cl. clay, St. stones, Co. coral, O. ooze, bk. black, wh. white, rd. red, y. yellow, gy. grey, bl. blue, dk. dark, lt. light, gn. green, br. brown, hnd. hand, st. soft, the line, crs. coarse, rky. rocky, stk. sticky, brk. broken, lrg. large, and small, str. shell.

- Red buoy, to be left to starboard, entering.
- Black buoy, to be left to port, entering.
- Black and red horizontal stripes, danger buoy.
- Black and white perpendicular stripes, channel buoy.
- No bottom at fathoms.
- Moorings buoy.
- Rock awash at any stage of the tide.
- Stunken rock.
- Wreck.

The soundings are in fathoms and show the depth at the mean of the lower low waters, except in Puget Sound where the figures show the depth at two feet below that plane.

The heights of the principal mountain peaks are given in feet. Figures in the water in brackets, thus (303), indicate the height, in feet, of the adjacent rock above high water.

Storm warning displays are made by the U.S. Weather Bureau at:  
Tohos Island  
Neah Bay\* Seattle  
East Chillum Anacortes  
Port Angeles Everett  
Port Townsend Port Crescent  
\*Messages signalled by International Code, from passing vessels, will be transmitted by telegraph.  
Note: By using International Code Signals, vessels can communicate by telegraph with Victoria from the following places: Cape Beale Light; Carmansh Light.

Note: About 4 feet at mean low water can be carried to Montezuma, Jan. 1913.  
The soundings in Lake Washington refer to the lowest water observed in the lake, which is about thirty feet above mean lower low water in the Sound. Observations by the Corps of Engineers U.S.A. show a variation of more than 4 feet in the level of the lake.

Libellants & A  
No. 4076  
United States District Court,  
Western District of Washington,  
Northern Division  
Puget Sound  
Libellant  
Lib. Oceania Vance  
Respondent  
Frank L. Bowman  
U.S. Comm.  
Case No. 2590.  
U.S. Circuit Court of Appeals  
For the Ninth Circuit  
Libellants Exhibit A  
Received and filed APR-6 1915  
F.D. MONCKTON, Clerk  
FILED IN THE  
U.S. District Court,  
Western District of Washington,  
Northern Division,  
JAN 28 1914  
FRANK L. CROSBY, Clerk.  
By Deputy.



Deception Island	Fig W	0 10	White	127	18	Siren
Pinnella Reef (Light Vessel)	2 F W	0 30	Red	391	114	Whistle Signals 6-7
Cape Flattery	Gp Occ W	3 0	White	155	19	Siren
Edith Bank	Gp Fig W	3 0	White	74	12	Siren
New Dungeness	Gp Occ W	3 0	Black and White	304	154	Siren
Smith Island	Fig W	0 15	White	87	15	Siren
Point Wilson	F W & R Fl	0 20	White	50	125	Siren
Admiralty Head	F W		White	127	17	
Point No Point	F W		White	23	34	Trumpet
West Point	Fig R & W	0 10	White	234	10	Trumpet
Cape Beale	Fig W	0 30	White	178	49	
Cannondah	Fig W	0 15	White	173	19	Horn
Race Rocks	Fig W	0 10	Black and White	110	18	Siren
Esquimaux (Light Vessel)	2 F W	0 15	White	44	10	Hell
Victoria Harbor (Boreas Island)	F W 2 R Secs		White	30	10	
Fiddle Reef (Major Chan)	Occ W		White	91	15	Diaphane
Discovery Island	Rev W	0 30	White	125	18	
East Point (Saturna Island)	F W R Sec		White	72	10	Hell
Portlock Point (Preston Island)	Occ W	0 05	White	55	12	Diaphane
Active Pass (Mayne Island)	I W R Sec		White	57	13	Trumpet
Burravoe Island	F W		Red	40	13	Diaphane
Fraser River (Light Vessel)	Fl W	0 05	White	103	10	Diaphane
Atkinson Point	Occ W R Sec	0 09	White	28	10	Hell
Prospect Pt (Burrows Island)	F W R Sec		White	65	14	Horn
Entrance Island	Occ W	0 15	Black	18	8	Hell
Brooklyn Lodge	F W		White	23-36	9 11	
Palmer Pass (Range Lights)	Occ W	0 20	White	512	113	Trumpet
Semiamish Harbor	Fig W		White	200	20	Diaphane
Pachena Point	Fig W	0 05	White	50	123	Trumpet
Palos Island	2 F W & R		Yellow	50 30		Whistle Signals 9-1
Sedative Bank (Light Vessel)						

# SIGNALS AND ABBREVIATIONS

M, mud; S, sand; G, gravel; Sh, shells; P, pebbles; Sp, specks; Cl, clay; St, stones; Co, coral; Oz, oyster; bl, black; wh, white; rd, red; y, yellow; gy, grey; bu, blue; dk, dark; lt, light; gn, green; br, brown; hrd, hard; soft, soft; fine, fine; c, coarse; rky, rocky; stk, sticky; brk, broken; lry, large; sm, small; stl, still.

- Red buoy to be left to starboard in entering.
- Black buoy to be left to port in entering.
- Black and red horizontal stripes, danger buoy.
- Black and white perpendicular stripes, channel buoy.
- No bottom at fathoms.
- Moor buoy.
- Rock awash at any stage of the tide.
- Sunken rock.
- Whisk.

# SOUNDINGS

The soundings are in fathoms and show the depth at the mean of the lower low waters, except in Puget Sound where the figures show the depth at two feet below that plane.

# ELEVATIONS

The heights of the principal mountain peaks are given in feet. Figures in the water in brackets, thus (303), indicate the height, in feet, of the adjacent rock above high water.

# STORM WARNING DISPLAYS

Storm warning displays are made by the U.S. Weather Bureau at  
 North Bay \* Seattle  
 East Clallam \* Anacortes  
 Port Angeles \* Everett  
 Port Townsend \* Port Crescent

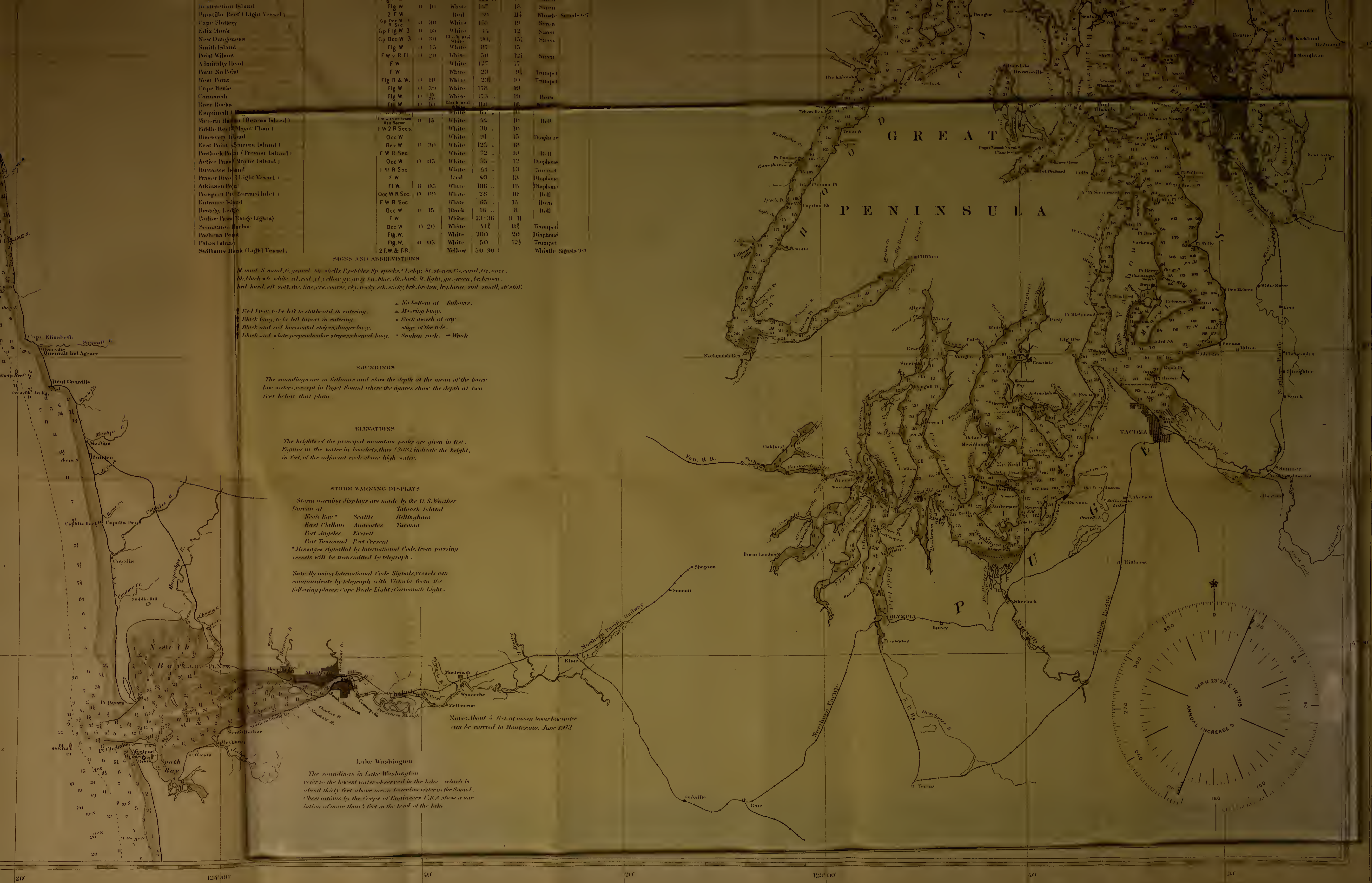
\* Messages signalled by International Code, from passing vessels will be transmitted by telegraph.

Now, by using International Code Signals, vessels can communicate by telegraph with Victoria from the following places: Cape Beale Light; Cannondah Light.

# LAKE WASHINGTON

The soundings in Lake Washington refer to the lowest water observed in the lake which is about thirty feet above mean lower low water in the Sound. Observations by the Corps of Engineers, U.S.A. show a variation of more than 4 feet in the level of the lake.

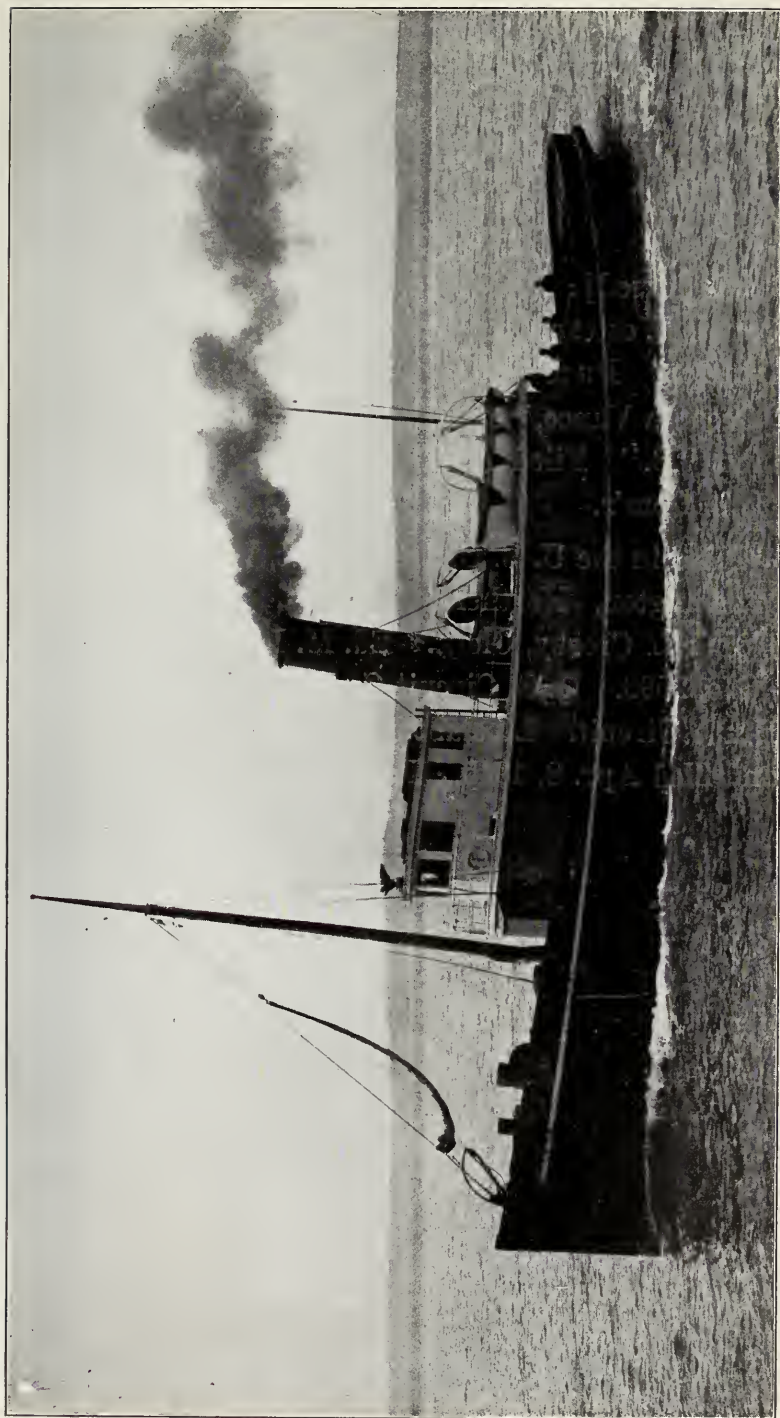
Note: About 4 feet at mean lower low water can be carried to Montesano, June 1913







**Libelant's Exhibit "B."**





[Endorsed]: No. 4046. United States District Court, Western District of Washington, Northern Division. Puget Sound Tug-Boat Co., Libellant, vs. "Oceania Vance," etc., Respondent. Libellant's Exhibit "B." Filed April 26, 1912. A. C. Bowman, U. S. Com'r.

Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Jan. 28, 1914. Frank L. Crosby, Clerk. Ed. M. Lakin, Dep.

No. 2599. U. S. Circuit Court of Appeals for the Ninth Circuit. Libellant's Exhibit "B." Received and filed Apr. 8, 1915. F. D. Monckton, Clerk.